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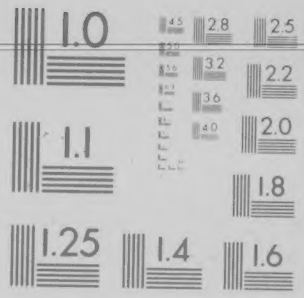
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APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES
1898 - 1914

ROLL 311

CHEROKEE D389 - D493

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBE
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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SETPEMBER 22, 1900.

In the matter of the application of John Ross Trott for the enrollment of-himself and wife as citizensof the Cherokee Nation; said Trott being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Ross Trott.
Q What is your age? A. 63.
Q Your post office address? A Verdon, Illinois.
Q What district were you enrolled in? A Cooweescoowee.
Q For whom do you apply? A Myself and wife.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q. By blood or inter-marriage? A By blood.
Q Is your father living? A No, sir, dead.
Q Your mother? A No, sir.
Q Did they die before 1 80? A Yes, sir.
Q What is the name of your wife? A Emma A.
Q Is she a citizen? A White woman.
Q When did you marry her? A In 1868.
Q Her father and mother are non-citizens? A Yes, sir.
Q Have you any children? A I have a son I would like to have him enrolled on the same card.
Q Your name does not appear on the roll of 1880? A No, sir.
Q You claim citizenship by reason of being admitted by the Dawes Commission? A Yes, sir.

The applicant presents a certificate of Admission from the Commission to the Five Civilized Tribes, certifying that in Dawes Commission case #5342, he was duly admitted to citizenship, on the 24th day of November, 1896 by the Commission to the Five Civilized Tribes Certificate is satisfactory.

1894 enrollment; page 320, #4364, John R. Trott, Cooweescoowee.

Q How long have you been a resident of the Cherokee Nation? A Since 1855.

W. W. Hastings, Representative of the Cherokee Nation:

Q Your post office is Verdon, Illinois? A Yes, sir.
Q How long has that been your post office? A About two years and a half.
Q Do you know exactly when you moved to Verdon, Illinois? A I do not know the exact date.
Q As accurately as you can get? A About 16 or 18 months ago.
Q Where did you move from to Verdon? A Moved from Auborn, or down near there.
Q How long did you live in Auborn? A Lived there nearly a year.
Q Where did you move from to Auborn, Illinois? A From here.
Q When did you leave Vinta, Indian Territory? A I left here in 1898, two years the first of January.
Q And since that time you have resided in Illinois? A Yes, sir.
Q Prior to 1896 where did you reside? A I was on the Pacific Coast part of the time.
Q Immediately before 1896? A I was here.
Q Did you resided in the Stare of Illinois before 1898? A Yes, sir.
Q When? A During the war.
Q Have you since that time and before 1896? A Yes,.
Q When? A Up to 1870.
Q Have you lived there since 1870 and before 1896? A No, sir.

Q Prior to 1896 you lived in California? A Yes, sir, I was in the Interior Medical Department of the Government; I was there by appointment.

Commissioner T. B. Needles:

Q Where did you reside on the 28th day of June, 1898, you resided in Illinois? A Yes, sir.

The applicant:--I knew what the law was in reference to being out of the country. I left my effects here, consisting of household fixtures and furniture, cooking utensils, stoves, canned fruit, etc. They were atored at my brother's, William M. Trott, and still remain there. I have a farm here; it is rented out all the time. I have town lots here and I considered this my home always. I left the Country temporarily only, on the account of my health and my wife's health. My wife had very poor heath here. I calculated to come back to the country. These facts can be established by witnesses if necessary.

Com'r Needles:--The name of John R. Trott appears upon the pay roll of 1894. He presents satisfactory proof of Admission of himself and his wife, Emma A. Stott; said certificate of admission being more fully described in the testimony as Dawes Commission case #5342. The applicant avers that he is not an actual resident of the Cherokee Nation. He is satisfactorily identified as the identical John R. Trott as is also his wife, Emma A., as mentioned upon the certificate of Admission, and by reason of his residence, final judgment as to the application for the enrollment of himself and wife, will be suspended and his name will be placed upon a doubtful card.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographi notes thereof.

John O Rosson

Subscribed and sworn to before me this 24th day of September, 1900

Commissioner.

D. 389.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of John R. Trott for the enrollment of himself and wife as citizens of the Cherokee Nation.

Applicant represented by W. P. Thompson, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified by registered letter February 10, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee on the 26th day of February, 1902. Receipt was acknowledged of the Commission's letter. The applicant on said day, the 26th day of February, 1902, appeared by his attorney, W. P. Thompson, and by agreement between said attorney and the representative of the Cherokee Nation present the case was continued until the 28th day of February, 1902. The case is called this day, to wit the 28th day of February, 1902, and the applicant again appears by his attorney, W. P. Thompson.

TESTIMONY IN BEHALF OF THE CHEROKEE NATION.

L. B. BELL, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A L. B. Bell.
Q What is your postoffice? A Vinita, 63 years old, very near 64.
Q Do you know Dr. John R. Trott, who formerly lived at Vinita?
A Yes, sir, I know him.
Q Does he live up there now? A No, sir.
Q How long has he been gone? A He has been gone several years.
Q Do you know where he is? A Don't know where he is, my understanding——well, they went into Missouri first from there, and I think Oscar Trott is up there, and I don't know what ever become of Ross.
Q Well, he has never returned to the Cherokee Nation in the last three or four years, that is, to live? A Never come back to Vinita or any part of the Cherokee Nation that I have been in .
Q You are an old resident of Vinita? A Yes, sir. I have been living there for years and years.
Q You knew him well? A Yes, sir, for fifty years I reckon.

P. G. REUTER, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A P. G. Reuter, postoffice address Muskogee, age 26 years.
Q Are you the chief clerk for the enrolling division of the Cherokee Nation, enrollment division? A Yes, sir.
Q And as such have charge of it? A Yes, sir.
Q I will ask you whether or not that you had any correspondence through this division with Dr. J. R. Trott. A We have had correspondence with one J. R. Trott, don't know about his title.
Q Well, is he the applicant in this case, inquiring about his case?
A Yes, sir.
Q Well, where was that letter addressed from? A Virden, Illinois.
Q Have you that letter? A I don't know, well——
Q Was it of recent date, you remember the date of the letter? A Yes, it was of recent date, I don't remember the exact date. I find that the

that the letter was dated February 24, 1902.

MR. THOMPSON: You don't know where he lives, do you, Mr. Reuter? A No, sir, I do not.

Q You don't know where his present residence is? A No, sir.

Q (Turning to Mr. Bell) Do you, Mr. Bell? A Oh, I guess he is where he wrote that letter.

Q I am talking about what you know? A I take it that he was alive when he wrote the letter.

Q You don't know where his present residence is, do you, Mr. Bell? A I don't know even the state he is in.

COMMISSION: Do you submit the case?

MR. THOMPSON: Yes, sir.

COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit the case to the Commission, and the same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

MR. THOMPSON: I desire to submit brief in behalf of applicant, setting forth the grounds upon which he thinks he is entitled to enrollment.

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Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. April 8th 1902.

In the matter of the application of John R. Trott et al for enrollment as citizens of the Cherokee Nation.

Cherokee D 389.

Brief of the Cherokee Nation.

The applicant himself was admitted by the Dawes Commission in 1896, as a citizen of the Cherokee Nation by blood but according to his testimony he left the Cherokee Nation about January 1st 1898 or prior to the passage of the Curtis bill and has sine that time been a resident of the state of ~~[illegible]~~ Illinois where he resides at the present time. Section 21 of the Curtis Bill provides "No person shall be enrolled who has not heretofore removed to and in good faith ~~[illegible]~~ settled in the nation in which he claims citizenship."

Certainlyfrom the testimony introduced in this case it can not be seriously contended that the applicant has removed to and in good faith settled in the Cherokee Nation andwe submit that if four years of continuous residencein the state of Illinois can not permit the commission under the law to enroll him, as a citizen of the Cherokee Nation.

As to his wife, she was never a citizen of the Cherokee Nation, she could not become a citizen of the Cherokee Nation by intermarriage in 1896 because of the act of the Cherokee Nation Council of December16th 1895 forbids it and this act has been respectedby the Commission and the Secretary of the Interior in all cases that have arisen under it for decision.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

(Cher-D-389).

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., [illegible]

In the matter of the application of [illegible] Truitt for enrollment as a citizen by intermarriage of the Cherokee Nation, [illegible] as a citizen by blood of the [illegible]

Sarah Truitt, being first duly sworn, and examined [illegible] testified as follows:

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Q What is your name? A Sarah Truitt.
Q What is your postoffice address? A Vernon, Illinois.
Q How old are you? A 53 years.
Q Are you an applicant for enrollment as a citizen by intermarriage of the Cherokee Nation? A Yes sir.
Q What is your husband's name? A John N. Truitt.
Q Is he a Cherokee by blood? A Yes sir.
Q When were you and John N. Truitt married? A We were married in 1867.
Q Where were you married? A In Vernon, Illinois, where I live now.
Q Was John N. Truitt ever married before his marriage to you? A I think not.
Q Were you ever married prior to your marriage to him? A No sir.
Q Have you and John N. Truitt lived together as husband and wife from the time of your marriage up to the present time? A Yes sir.
Q Have you ever been separated? A No sir.
Q You and he were living together as husband and wife on September 1, 1902? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have lived there [illegible] years altogether.
Q When did you first come to the Territory? A We first came there, it has been 33 years ago.
Q How long did you stay in the Cherokee Nation? [illegible] about 8 years at that time.
Q Then did you go out of the Territory? A Yes sir.
Q When did you come back again? A I can't remember the date we came back.
Q About how long ago? A Eight years, I think.
Q Where did you come to that time? A Vinita; that is where we made our home.
Q How long did you live in Vinita? A About four or five years at that time.
Q Then when did you leave the Territory, or the Nation? A We left, I think, in 1898.
Q Where did you go? A To Vernon, where we live now.
Q What time of the year did you go there? A We went in January.
Q January, 1898? A Yes sir.
Q Have you and John N. Truitt been living there ever since you left here in 1898? A Yes sir.
Q You are living in Illinois now, are you? A Yes, I have lived there since I was [illegible] years old; my home has been there.
Q [illegible] A Yes [illegible] several times.
Q [illegible] in January, 1898? A Yes sir.
Q [illegible]
Q [illegible] A Yes sir.

Cher-D-389.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, I.T., October 29, 1902.

In the matter of the application of Emma Trott for enrollment as a citizen by intermarriage of the Cherokee Nation, for the enrollment of her husband, William O. Trott as a citizen by blood of the Cherokee Narion.

Emma Trott, being first duly sworn, and examined by the Commission, Testified as follows:

Q What is your name? A Emma Trott.
Q What is your postoffice address? A Verden, Illinois.
Q How old are you? A 54 years.
Q Are you an applicant for enrollment as a citizen by intermarriage of the Cherokee nation? A Yes sir.
Q What is your husband's name? A John R. Trott.
Q Is he a Cherokee by blood? A Yes sir.
Q When were you and John R. Trott married? A We were married in 1867.
Q Where were you married? A In Verden, Illinois, where I live now.
Q Was John R. Trott ever married before his marriage to you? A I think not
Q Were you ever married prior to your marriage to him? A No sir.
Q Have you and John R. Trott lived as husband and wife from the date of your marriage up to the present time? A Yes sir.
Q You have never been separated? A No sir.
Q You and he were living together as husband and wife on September 1, 1902?
A Yes sir.
Q How long have you lived in the Cherokee nation? A I have lived there 11 years altogether.
Q When did you and Mr. Trott first come to the Territory? A We first came there, it has been 25 years ago.
Q How long did you stay in the Cherokee nation? A Staid 7 years at that time.
Q Then did you go out of the Territory? A Yes sir.
Q When did you come back again? A I can't remember the date we came back
Q About how long ago? A Eight years, or nine.
Q Where did you come to that trip? A Vinita; that is where we made our home.
Q How long did you live in Vinita? A About four or five years at that time
Q Then when did you leave the territory after that? A We left I think in 1898
Q Where did you go? A To Verden, where we live now.
Q What time of the year did you go there? A We went in January.
Q January, 1898? A Yes sir.
Q Have you and John R. Trott been living there ever since you left here in 1898? A Yes sir.
Q You are living in Illinois now, are you? A Yes, I have lived there since I was twelve years old; my home has been there
Q But you have lived on several different occasions in the nation? A Yes, several times.
Q The last time you were here was ended in January, 1898? A Yes sir.
Q You left here at that time and went to Verden, Ill., where you have resided ever since? A Yes sir.
Q Mr. Trott has resided with you during these different times you have been here in the Territory? A Yes sir.

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Frances R. Land upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof

Frances R Land

Subscribed and sworn to before me this 29th day of October, 1902.

B C Jones
Notary Public.

Cherokee D - 389.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John R. Trott for the enrollment of himself as a citizen by blood of the Cherokee Nation and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, John R. Trott appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on March 26, 1901, February 28, and October 29, 1902.

The records of the Commission show that on September 7, 1896, John R. Trott filed with the Commission his petition for admission to citizenship in the Cherokee Nation as a Cherokee by blood, under the Act of Congress, approved June 10, 1896, (29 Stats., 321); that on the same day Emma A. Trott filed with the Commission her petition for admission to citizenship in said Nation as an intermarried citizen, under the Act aforesaid; that on November 24, 1896, the said John R. Trott was admitted to citizenship in the Cherokee Nation as a citizen by blood, and the said Emma A. Trott was, on said November 24, 1896, admitted to citizenship in said Nation as an intermarried citizen, under the provisions of the Act of Congress aforesaid, and that no appeal was taken from the decision of the Commission.

The evidence further shows that the said John R. Trott, and his wife, Emma A. Trott, moved from the Cherokee Nation to the State of Illinois, about January, 1898, and that neither of them have resided in said Nation or Indian Territory since that time.

Paragraph nine, Section twenty-one of the Act of Congress, approved June 28, 1898, (30 Stats., 495), provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

It is, therefore, the opinion of this Commission that the application for the enrollment of John R. Trott as a citizen by blood of the Cherokee Nation, and for the enrollment of Emma A. Trott as a citizen by intermarriage of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(SIGNED) Tams Bixby
Acting Chairman

T. B. Needles.
Commissioner

C. R. Breckinridge.
Commissioner

Muskogee, Indian Territory,

this DEC 10 1902

Before the Department of the Interior:

Washington.

September 10th 1903.

In the matter of the application for the enrollment of John R. Trott et al as citizens of the Cherokee Nation.

Reply Brief.

The record in this case shows that JohnR. Trott is a Cherokee by blood and was admitted as such by the Commission to the Five Civilized Tribes in 1896; that he had resided in the Cherokee Nation now and then at times to the extent of about eleven years since the civil war and that presumably expecting a division of the Cherokee estate he came back in 1896 and applied to the Commission under the act of June 10th 1896.

As soon as he was enrolled, namely, about January 1st 1898, he left the Cherokee Nation with his wife and returned to the state of Illinois, the old home of his wife where he had previously resided and settled down to make Virden, Illinois his home.

The Cherokee Nation most earnestly contends that it was the intention of the Curtis Bill to require all persons who desired to enjoy ~~a~~ division of the common estate of the Cherokee Nation to return to and permanently reside within the limits of the Cherokee Nation because section twenty-one provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

Can it be said that the applicant in good faith settled in the Cherokee Nation. True he removed here to the Cherokee Nation but it was only a temporary removal and not such a permanent removal as was contemplated by the act of Congress. We think that the spirit of the act of Congress as well as the law required a bonafide removal together with a permanent residence to be established within the limits of the Cherokee Nation and that clause of section 21 of the Curtis bill was intended to cover just such cases. The testimony does show that the applicant claims to have left a ~~fe~~ few effects, household goods of doubtful value, which perhaps could not have been sold and were not valuable enough to ship, boxed up and stored away at his brothers, but his wife who appears before the Commission on October 29th 1902 testifies that she left the Territory about January 1st 1898, that they live in Virden, Illinois and in answer to this question: " You are living in Illinois, now are you?" xx she answered "Yes xixx I have lived there since I was twelve years old, my home has been there." This indicates that her permanent residence was always in Illinois and that she only considered here residence in the Territory from 1895 or 1896 to 1898 as a temporary residence which was evidently only for the purpose of being enrolled and securing a division in the Cherokee estate.

The Cherokee Constitution praxxxxxxxxx forbids the enrollment of this applicant because article one section 2 provides that "Whenever any citizen shall remove with his effects out of the limits of this nation and becomes a citizen of any other government, all his rights and privileges as a citizen of this nation shall cease."

Now is is true that Dr Trott claims that he resided within the Cherokee Nation a few years, but he admits that practicably, with a few exceptions, that his life has been spent since the civil war in the States and he recognized that when he returned to the Cherokee Nation in 1896 thx that under the Cherokee Constitution above quoted that it was necessary for him to have been readmitted to citizenship and immediately after he was readmitted he at once again removed out of the limits of the Cherokee Nation to the State of Illinois where his wife testified had always been her home.

We do not believe that the effects testified to by the applicant as having been left behind were of such value as would retain to applicants their citizenship in the Cherokee Nation . John R. Trotts residence in Illinois is not temporary, because he is residing there today and has been for five and a half years last past, and if that clause of the Curtis Bill requiring all applicants to be enrolled to remove to and in good faith settle in the nation in which they claim citizenship does not apply to these applicants we can not conceive of any case wherein this section is applicable.

The applicants are not upon the 1880 roll and the admission of the applicant in 1896 gives him no greater rights in the Cherokee Nation than if he had been admitted by the Cherokee National Council or some citizenship Commission duly authorized by law.

We think that a fair interpretation of this clause in the Curtis Bill requires applicants to remove to and in good faith, permanently locate within the limits of the Cherokee Nation; in other words totake up their residence in the Cherokee Nation; to make it their home; take part in the Cherokee Governmental affairs; assist in the winding up of the Cherokee estate; aid in bearing the burdens of Cherokee citizenship and not to merely have their names carried on the Cherokee rolls for the purpose of participating in the division of the lands and moneys of the Cherokee Nation.

The patent to our lands signed to us by President Martin Van Buren in 1838 provides:

> "That the lands hereby granted shall revert to the United States if said Cherokee Nation becomes extinct or abandons the same"

Suppose for the sake of the argument that every citizen of the Cherokee Nation had removed from within the limits of the Cherokee Nation and took up their residence in foreign states or territories as did the applicants in this case, what would have become of the Cherokee estate. Would not the lands granted to us have reverted to the United States and would not the Cherokee Nation have become extinct and would it not have been determined that our estate was abandoned and if so there would not have been any property to have divided among the Cherokees.

For these reasons we take it that the clause herein above quoted was put in the Cherokee constitution and it was intended that all Cherokee citizens who desired to retain their rights and tox partake of the benefits growing out of Cherokee Citizenship should remain within the limits of the Cherokee Nation or if they removed therefrom, their removal should be temporary and not of such a permanent nature as to take up a residence and actually live without its limits. We submit that Congress had in view just such a case as this and it intended by the Curtis Bill to divide the Cherokee estate among those of the Cherokee People who had assisted in bearing the burdens of Cherokee Citizenship.

We have argued in umerous briefs, that no person could at one and the same time be a citizen of two governments and since it is admitted that the applicants home is in the state of Illinois, where it has always beer there is no doubt but that the applicants are legal citizens of the State of Missouri and therefore could not at the same time be citizens of the Cherokee Nation.

For the reasons herein above assigned we are earnestly of the opinion that the applicants should not be enrolled as citizens of the Cherokee Nation and in order that there might be a construction placed upon the paragraph of the Curtis Bill herein above quoted by the highest legal authority we respectfully request that the same be submitted to the Honorable Attorney general of the United States for a construction of said paragraph in connection with this case.

Respectfully submitted,

W W Hastings JCS
Attorney for the Cherokee nation.

Cherokee D 389.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, January 4, 1907.

In the Matter of the Application for the Enrollment of Emma A. Trott as a citizen by intermarriage of the Cherokee Nation.

APPEARANCES:
William L. Trott and Eliza J. Trott for Applicant.
Cherokee Nation represented by H. M. Vance, in behalf of W. W. Hastings, Attorney.

William L. Trott being first duly sworn by B. P. Rasmus, Notary Public, testified as follows:

ON BEHALF OF COMMISSIONER.

Q What is your name? A William L. Trott.
Q What is your age? A I am 62.
Q What is your post office address?
A Vinita, Indian Territory.
Q Are you a citizen by blood of the Cherokee Nation?
A Yes sir.
Q Have you a brother by the name of John R. Trott?
A Yes sir.
Q Is he on the final roll as a citizen of the Cherokee Nation?
A Yes sir.
Q Has he filed on his land?
A Yes sir.
Q You desire to give testimony relative to the right to enrollment of Emma A. Trott, wife of your brother?
A Yes sir.
Q She is a citizen by intermarriage of the Cherokee Nation?
A Yes sir.
Q Do you know when your brother was married to his wife, Emma A. Trott?
A About '66.
Q Where was your brother living at the time he married his wife?
A He married her in Illinois.
Q Was he making his home in Illinois at that time?
A I don't know that he had any home at that time in particular.
Q When did he and his wife come to the Cherokee Nation after they were married?
A About '71.
Q Do you know of your own personal knowledge that your brother on coming to the Cherokee Nation was recognized by the tribal authorities as a citizen of the Nation, without any re-admission?
A Yes sir; he held office there under appointment from the Chief.
Q It was not necessary then on his return to the Cherokee Nation for him to go before the tribal authorities and be re-admitted?
A He never did that I know of.
Q You say if your brother ever did make application for admission to citizenship in the Cherokee Nation after he came to the Cherokee Nation subsequent to his marriage, you have no personal knowledge of it?
A I have not. I think I would have known it if he had.

Q Where has your brother lived since his marriage, as near as you can state.

A He lived in Vinita from the time I mentioned, '71, until since the final roll was made up.

Q He lived in Vinita continuously did he, from 1871 up to and including September 1, 1902.

A I think he did. I am not positive.

Q You don't know of his being absent from the Nation for any length of time during the period between those dates?

A I am not positive about it; I don't remember.

The records of this office show that John R. Trott, husband of Emma A. Trott, made application to the Commission to the Five Civilized Tribes acting under authority of the Act of Congress approved June 10, 1896, for admission to citizenship in the Cherokee Nation and was admitted by said Commission in 1896, case number 5342. The applicant, Emma A. Trott, is not identified on any tribal roll of the Cherokee Nation in the possession of this office. The name of her husband, John R. Trott, is included in the approved partial roll of citizens by blood of the Cherokee Nation opposite No. 30851.

Q Was your brother, John R. Trott, ever married prior to his marriage to Emma A. Trott, his wife?

A Not that I know of.

Q His wife was never married prior to her marriage to him?

A Not that I know of.

Q They have continuously lived together as husband and wife since their marriage, have they?

A Yes sir.

Eliza J. Trott being first duly sworn by B. P. Rasmus, Notary Public, testified as follows:

ON BEHALF OF COMMISSIONER.

Q What is your name? A Eliza J. Trott.

Q How old are you? A 56.

Q What is your post office address?

A Vinita.

Q You desire to give testimony relative to the right to enrollment of one Emma A. Trott, wife of John R. Trott, as a citizen by intermarriage of the Cherokee Nation?

A Yes sir.

Q Are you related to either of these people?

A By marriage.

Q What relation are you?

A Sister-in-law.

Q You married a brother of John R. Trott?

A Yes sir.

Q Where are John R. Trott and his wife living at the present time?

A Verden, Illinois.

Q When did they go there to live?

A They have been there about three or four years I guess.

Q Do you know where they were married?
A They were married in Verden.
Q When were they married?
A In February, '67.
Q How soon after their marriage did they come to the Cherokee Nation?
A It was '71 they came here; in the winter of '71.
Q Where did they live in the Nation after coming here?
A Vinita.
Q How long did they continue to live in Vinita after they came here in 1871?
A About 20 years or over.
Q Then did they leave the Nation?
A About three or four years ago. He has always owned property here,- town lots and owned his home here,- a farm. His wife's people live in Illinois and they went back there.
Q After John R. Trott came here in 1871, was he recognized by the tribal authorities prior to 1896?
A I guess so; I never heard anything to the contrary.
Q Did he hold office in the Nation?
A Yes sir.
Q What office?
A I don't know what office.
Q Did he draw money?
A Yes sir; he drew money.
Q What payments did he draw?
A Bread money payment; then the strip money. I think the bread money was in '74 or '75.
Q Did his wife draw money?
A Yes, she drew bread money but did not draw the strip money.
Q Emma A. Trott is living at the present time, is she?
A Yes sir.

ON BEHALF OF CHEROKEE NATION.

Q Did you see John R. Trott draw the bread money?
A No sir.
Q Did you see Emma A. Trott draw bread money?
A Why, I know that she drew it; she told me she did.
Q Then what you have learned is by hearsay?
A I saw the money she drew.
Q How did you know it was the bread money?
A That's what they told us it was.
Q Were you present at the marriage?
A No sir.

ON BEHALF OF THE COMMISSIONER.

Q You know of your own personal knowledge that John R. Trott and Emma A. Trott have been living together as husband and wife for the last 35 or 40 years?
A Yes sir; since '67.

Q There never has to your knowledge been any separation of any kind?
A Never has.

The undersigned being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the testimony taken in this case and that the foregoing is a full, tru and correct transcript of her stenographic notes thereof.

Myrtle Hill

Subscribed and sworn to before me this the 5th day of January, 1907.

John E. Tidwell
Notary Public.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re application of)
John R. Trott and Emma A. Trott :
for Enrollment as citizens of)
the Cherokee Nation. :

----oOo----

BRIEF FOR APPLICANTS.

This cause was decided by the Commission before the final decision was rendered in the Yeargains cases on March 3, 1903. Since the latter decision the question of the intent of applicants in leaving the Cherokee Nation is a vital one in every case and also the fact that such applicants did not remove their property is decisive.

Briefly, the Yeargains cases held that if one is a citizen of the Cherokee Nation and lives there he can lose his rights only by doing all of four things, viz:

1. Remove from the Nation.
2. Take all his effects.
3. Become a citizen of another government.
4. Do all of the above with the intent of permanently abandoning the Cherokee Nation.

This decision is explicit that all of these must concur and if any applicant shall not have done any one of them he has not forfeited his rights but must be enrolled.

The Commission has found the name of John R. Trott and his wife on the 1894 roll and properly so. He and his wife were readmitted by the Commission in 1896. There is no question that in 1898, when they left Vinita and the Cherokee Nation, they were entitled to all the rights of Cherokee citizens.

Have they, then, done the four things which work a forfeiture of their rights? The record shows they have done the first only, which, under the Yeargains decision does not work a forfeiture.

They did not remove any of their effects. They left in the Cherokee Nation all of their property. The following is from the record:

> The applicant: "I knew what the law was in reference to being out of the country. I left my effects here consisting of household fixtures and furniture, cooking utensils, stoves, canned fruit, etc. They were stored at my brother's, William L. Trott, and still remain there. I have a farm here; it is rented out all the time. I have town lots here and I consider this my home always. I left the country temporarily only on the account of my health and my wife's health. My wife had very poor health here. I calculated to come back to the country. These facts can be established by witnesses if necessary."
>
> William L. Trott, brother, testified that applicant left his farm in his charge and some town property and the household effects stored at his house. The household effects were bedsteads, stoves, kitchen furniture, household furniture, and heating stoves, some packed boxes, canned fruits and just general household stuff. There were two or three wagon loads of it. Witness has been taking care of it ever since.

Nor did these applicants become citizens of Illinois. In fact they could not do so. Elk vs. Wilkins, 112 U. S., 94. But there is not a bit of evidence showing an effort to do so.

Their intent is shown by the testimony of applicant, John R. Trott, who said they intended to return and this is supported by the fact of their leaving their household goods in the Nation.

These applicants should be enrolled, therefore, because:

They have not removed their effects from the Nation.

They have not become citizens of another government.

The intent was not to abandon their Cherokee citizenship for they were careful to do no act to lose that status.

THE ACT OF 1896.

Stonewall J. Rogers was rejected by the Commission because he applied to the Commission in 1896 and was rejected. No appeal was taken in 1896. The Commission now says that Rogers rejection in 1896 was final and that the Commission has no right to interfere with that decision.

John R. Trott and wife applied to the Commission in 1896 under the same law and were enrolled by the Commission. No appeal was taken in 1896. The Commission has interfered with that decision and has rejected these applicants. Consistency, thou art a jewel!

The last brief we wrote was in the Rogers case. What shall we do now? The Commission is on both sides of the fence. Shall we straddle, too?

We ask that careful consideration be given our brief on this point in the Rogers case. It expresses our view of the law and is, in our opinion, the only rational view. Certainly, applicants have ground for complaint when such utterly irreconcilable opinions are rendered. Uniformity is their due.

If it be right to refuse to disturb the 1896 decision in the Rogers case then how can the 1896 decision be disturbed in this case?

We desire to call attention also to the latter part of the recommendation of the Indian Office in this case. The Yeargains decision has answered the question as to this case, but numerous persons have written to us who removed to the Nation just a few days after June 28, 1898. One family we recall came in on August 8th. So far as we know they came in absolute good faith. Under Cherokee law they were entitled to enrollment. Not a day's grace was given by the Act of June 28, 1898. We suggest that a removal at any time prior to June 28, 1898, is sufficient and where it is shown that applicants were on that day actually engaged in removing as by disposing of property for that purpose, or were detained by sickness so that removal became impossible a humane construction would allow their enrollment.

We believe an impartial review of the decisions in these Cherokee citizenship cases will show that every presumption has been against the applicant; that the laws have been liberally construed in favor of the Cherokee Nation, but that the applicant meets with strict construction.

Where there is doubt as to the applicant's Cherokee blood this is clearly right, but we respectfully submit that, the Cherokee blood shown, then the rule should be reversed and every reasonable presumption should be with the applicant. Statutes should be liberally construed in favor of applicants.

Nor should this stop here. If the acts of the applicant might indicate two intents, the one favorable to the applicant should be the guide. In this case the removal of the parties who have their property in the Nation should be proof of the intent not to abandon but to retain citizenship.

Respectfully submitted,

Harry G. Kimball

Wm Henry White

Attorneys for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
Application of John R. Trott, :
et al. for Enrollment as citi-)
zens of the Cherokee Nation. :

----oOo----

SUPPLEMENTAL BRIEF FOR APPLICANT.

Of course, this case is to be tried on the record and not on the assertions of attorneys. We ask that the record be particularly examined with reference to the following statements in the "reply brief" of the Nation.

> Presumably expecting a division of the Cherokee estate he came back in 1896 and applied to the Commission under the Act of June 10, 1896.

The record shows the facts to be as follows:

Dr. Trott testified that he has been a resident of the Cherokee Nation since 1855 excepting during the war (1861-1866) and until 1870, during which time he was in Illinois. From his testimony he was not in Illinois from 1870 to 1898. His wife shows they were in the Nation from 1877 to 1884 and from 1893 to 1898. His whereabouts from 1870 to 1877 and from 1884 to 1893 may be seen from his testimony. He was in the Government service -- in the Interior Medical Department.

He resided in the Cherokee Nation, therefore, from 1855 until 1861, or for six years; from 1877 to 1884, or for seven years; and from 1893 to 1898, or for five years, making a total of eighteen years actual residence in the Cherokee Nation. In addition to that we should consider the time when he was in the government employ as residence in the Nation and the score will then be from 1855 to 1861, or five years; and from 1870 to 1898, or twenty-eight years, making a total of thirty-three years legal and actual residence in the Cherokee Nation. May we inquire here how long, in the opinion of counsel for the Nation, it requires to establish a settlement in good faith in the Cherokee Nation?

> As soon as he was enrolled, namely, about January 1st, 1898, he left the Cherokee Nation

refutes itself. He was enrolled in 1896.

> The Applicant claims to have left a few effects, household goods of doubtful value, which perhaps could not have been sold and were not valuable enough to ship.

The record shows the following effects left in the Nation and absolutely nothing removed:

They consist of "bedsteads, stoves, kitchen furniture, heating stoves, packed boxes, canned fruits and just general household stuff x x x two or three wagon loads of it," an improved farm on rental and town lots.

The other contentions of counsel for the Nation are met by our first brief. They are immaterial since the decisions in the Clarke, Yeargains and Shirley cases.

Respectfully submitted,

Harry G Kimball

Wm Henry White

Department of the Interior.

In the matter of the application
of John R. Trott, and his wife,
Emma A. Trott, for enrollment as
citizens of the Cherokee Nation.
Land ~~46~~077-1902. CommissionNo.
D-389 Department No D. C. 23143-1903.
I. T. D. 450-1903.

Supplemental Brief.

The applicants desire to file the following supplemental brief in addition to the original brief filed by them in this cause and desire to call attention to the original brief and argument in connection with this present brief.

The statement of fact, which is filed herewith, of W. A Jones, Commissioner of Indian Affairs, in his letter of recommendation to the Department of the Interior dated January 16, 1903, and marked "Exhibit A", practically states all the facts in this cause.

John R. Trott and wife were recognized citizens of the Cherokee Nation and had exercised all the rights of citizenship therein prior to November 24, 1896, and owned and held property in the Cherokee Nation, and on November 24, 1896 John R. Trott and his wife Emma A. Trott, were admitted to citizenship in said Nation by the Commission to the Five Civilized Tribes, under Act of Congress approved June 10, 1896, and from that date they were recognized citizens and ~~the~~ of Cherokee Nation and lived in said Nation until January 1898. The testimony, as disclosed by the record in this case, of John R. Trott ~~and wife~~ is, that he owned and still ownes town lots, household goods and effects and other property in the Cherokee Nation. This testimony is corroborated by the testimony of W. L. Trott, who has in charge and in his possession for John R. Trott as his agent, the property in the Cherokee Nation belonging to John R. Trott.

As heretofore argued ~~provided~~ in the original brief there is but one way that a citizen, once recognized and decided to be a citizen of the Cherokee Nation, could forfiet his citizenship, and that is under Section 2, Art. 1, of the Cherokee Constitution, which says ~~and that is~~: "That whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other ~~Nation~~ Government, all his rights and privileges of this Nation shall cease." The record discloses that this state of facts does not exist in the case of John R. Trott and his wife Emma A. Trott. They not only left landed property here but, left their household goods and effects, stored with W. L. Trott, in the town of Vinita, Indian Territory, Cherokee Nation. The record discloses that they were bona fide citizens and had a bona fide resident in the Cherokee Nation for years prior to their application for enrollment in the above entitled cause. The Commission to the Five Civilized Tribes decided on November 24, 1896, as shown by the certificate of admission issued to them from which no appeal was taken, and the Act of June 28, 1898 provides that the Commission to the Five Civilized Tribes should enroll all persons whose names appear upon the Cherokee Rolls and who have heretofore been admitted by acts of the National Council or by the Commission to the Five Civilized Tribes unless such admission was obtained by a fraud, and there was no attempt or no claim in this case that there was any fraud, or that they were admitted without authority of law. When they left the Cherokee Nation, in 1898 they were duly recognized citisens thereof and left their effects in the Nation and their landed property so as not to lose their rights to citizenship by the reason of Cherokee Law. The paragraph of the Act of Congress of June 28, 1898 which provides that "No persons shall be enrolled who has not heretofore removed and in good faith settled in the Nation in which he claims citizenship" is not applicable in this case and the Commission to the Five Civilised Tribes was in error when they made this application and denied the enrollment of the applicants, and in support of this proposition, I desire to call attention to an opinion rendered by S. V. Proudfit, First Assistant Attorney General of the United States, dated July 8, 1903, which was transmitted to the Secretary of the Interior and approved by Thos. Ryan Acting Secretary, on July 8, 1903, marked:

Department of the Interior.

Office of the Assistant Attorney General.

I. T. D. Washington.

5066-1903.

J. R. W.

J. R. W/

W. C. P.

which says that the above section of the Act of Congress of June 28, 1898, was passed "To preclude claims by those who were in no way co-operated to the National development Congress provided, that no person shall be enrolled who has not in good faith removed to the Nation in which he claims citizenship." The provision has no reference to such persons who had been at some time in good faith residents of the Nation, but for some temporary purpose, without intent to abjure citizenship, or to permanently sever his connection with the Nation, was absent therefrom at the passage of this Act." and cites the case of Joseph ~~John~~ J. Yeargain, opinion of the Assistant Attorney General, March 16, 1903, which is an exactly parallel case with this one at issue. This decision of Mr. Proudfit, which was approved by Honorable Thos. Ryan, Acting Secretary on July 29, 1903, is undoubtedly the correct interpretation of this law.

Wherefore we respectfully submit that the recommendation of W. A. Jones, Commissioner, dated January 16, 1903, in which he says "In the case at bar the office considers that applicants have not lost their rights to be enrolled as citizens of the Cherokee Nation and recommends that the decision of the Commission herein be set aside and the parties enrolled," should be approved and the parties orderedenrolled.

Respectfully submitted.

Wm. P. Thompson

Attorney for applicants.

1

Exhibit "A"

Refer in reply to
the following:
Land
76077-1902.

Copy.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs.

Washington. Jan. 16, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted, herewith, the record and proceedings had in the matter of the application of John Ross Trott, for the enrolment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation.

On December 10, 1902, the Commission rendered a decision in this case, finding that the pplicant and his wife moved from the Cherokee Nation to the State of Illinois, about January 1898, and that neither of them have resided in said Nation or Indian Territory since that time, and that paragraph nine of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), providing:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship," is applicable in this case and that the application herein should be denied.

The record evidence shows that theapplicant is 63 years old, that his post office address is Verdon, Illinois, that he was married to his present wife, a white woman, in 1868, that the applicant and his wife have resided in the Indian Territory since their said marriage, at divers times, in all about eleven years.

The record states that on September 7, 1896, John R. Trott filed with the Commission his petition for admission to citizenship in the Cherokee Nation as a Cherokee by blood, under the Act of Congress, approved June 10, 1896, (29Stats., 321) and that the same day his said wife likewise made application under said Act for admission to citizenship as an intermarried person; that on November 24, 1896, the said John R. Trott and his said wife were, by the Commission admitted to citizenship in said Nation, certificates of admission issued to them, and no appeal taken from said decision. From that date till the passage of the Act of Congress of June 28, 1898, the said John R. Trott and wife were recognized citizens of the Cherokee Nation, unless such citizenship was forfieted by their own act.

The only authority given the Commission to again investigated the right of these applicants to citizenship in the Cherokee Nation is that part of sedtion 21, of the said Act of 1898, providing "and they shall investigagee the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto and their descendants born since such rolls were made with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

It is not claimed that the ceritifcates of citizenship held by these applicants were obtained by fraud or without authority of law and the only reason assigned for the refusal of their applicants is the fact that they left the Cherokee Nation in January 1898, and moved to Illinois where they have since resided. When they left the Cherokee Nation they were duly admitted citizens thereof and left their effects in the Nation so as not to lose their rights to citizenship by reason of the Cherokee law.

The Act of June 28, 1898, has not been passed, and when passed, it made no provision for notice to those persons who claimed citizenship therein and and resided without the Territory nor did it provide any time within which they might return and thereby maintain their citizenship. It did provide that "no person all be enrolled who has not heretofore removed to and in good faith settledin the Nation in which he claims citizenship." These applicants had removed to the Cherokee Nation and been granted certificates of citizenship therein by the Commission in 1896, and remained there until January 1898. Now at what particular time between January 1898, and June 28, 1898, must these applicants have again moved to said Nation to preserve their rights of citizenship therein. The provision itself fixes no time unless taken literally and construed to be an arbitrary rule that was to take effect on said June 28, 1898. This view has not heretofore been taken by the department, nor has any time limit been fixed thereby. In view of the fact that adjudications are constantly arising in which this same question comes up, the office suggests that some construction be had of said provision fixing the time when such removal must have been made to carry with it the rights of citizenship if such right is along dependent on removal.

In the case at Bar the office considers that applicants have not lost their right to be enrolled as citizens of the Cherokee Nation and recommends that the decision of the commission herein be set aside and the parties enrolled.

Very respectfully.

W. A. JONES,

Commissioner.

W. D.

L.

Before the Commission to the Five Civilized Tribes.

In the matter of the
Application of John Ross
Trott for enrollment of
himself and wife as citizens
of the Cherokee Nation.

Brief of Applicant.

Statement of Facts.

The facts in this case are that applicant was admitted by the Dawes Commission the 24" day of November, 1896 by the Commission to the Five Civilized Tribes, case No. [illegible] 5842, that applicant has fully identified himself as the identical John Ross Trott and has also identified his wife, Emma A. Trott, as being the identical persons whose names appear on the certificate of admission; That he is at present living at Verdom, Illinois, but that he laft all his effects and belongings, consisting of household furniture and fixtures cooking utensils, stoves, canned fruit, etc., stored at his brother's, William M. Trott, In Vinita, Indian Territory, Cherokee Nation, where they still remain, that he has a farm here in the Cherokee Nation from which he is now and has been receiving rents all the time, that he has also town lots also in the Cherokee Nation and that he considered the Cherokee Nation his home always and that he left the Cherokee Nation temporially on account of the health of himself and wife and that he always intended to come back to the Cherokee Nation.

Argument.

This applicant and his wife made application to the Dawes Commission under the Act of Congress of June 10, 1896, and his case was determined favorably and they were duly admitted to citizenship in case No. 5382 on the 24" day of November, 1896 by the Commission to the Five Civilized Tribes, from which decision of the Commission there was no appeal by the Cherokee Nation; that under said act of Congress, such decision was final and the Rolls upon which said Commission decided that he was entitled to be enrolled upon by the terms of said Act of June 10, 1896 or hereafter to be "held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes: Provided, That if the tribe or person be aggrieved with the decision of the tribal authorities or the Commission provided for in this act, it or he may appeal from such decision to the United States Court: Provided, however, that the appeal shall be taken within sixty days, and the judgment of the Court shall be final." The records in this case show that there was no appeal and therefore the decision of the Commission ~~is concluded~~ was final and the Cherokee Nation is concluded from further contesting the rights of this applicant; That the Cherokee Nation having been granted the right of appeal from the Dedision of the Commission and it having failed to take advantage of this right of appeal the applicant has a fized right in the decision and he cannot constitutionally be subjected to further chance or hazzard in subjecting him to a further trial of the same issue for which ~~judgment~~ final judgment has been had in his favor. "Rights securred by judgment cannot be divested." Wade on Retroactive Laws, Sec. 171, page 203. First Black on Judgment, page 373, 374, 375. Sec. 298, Black on Constitutional Prohibitions, Sec. 497, page 250 251, 252, Sec, 198, page 252, 253.

Statutes authorising the opening of judicial impairs vested rights and infringes on the judicial department of the government, Sed. 199, page 253; Black on Constitutional Law, page 259, Sec. 99, goes further and says: "A case which has been submitted for decision is not subject to any control by legislature." Sutherland on Statutory Construction, Sec. 496, page 626, is conclusive on this piont.

For further argument petitioner says that the evidence of himself and W. L. Trout show that he laft all his household effects, a farm and town lots within the limits of the Cherokee Nation, he has never become a citizen of any other government but has always regarded the cherokee Nation as his h ome and has only absented himself because of the ill health of himself and wife and therefore has not forfieted his citizenship, Under Sec. 2, Art. I of the onstition of the Cherokee Nation which says in words as follows: "Whenever any citizen shall remove with his effects out of the limits of the Cherokee Nation and become a citizen of any other government all his rights and privilelges as a citizen of this Nation shall cease." Elks, vs. Wilkins, 112, U. S. page 643, L. C. P. Co. Edition.

I therefore respectfully submit that applicant and his wife are entitled to enrollment as citizens of the Cherokee Nation.

Respectfully submitted,

Wm P. Thompson

Atty. for Applicant.

April 8, 1902.

C. D. 389.

William P. Thompson, Esq.,
Vinita, I. T.

Dear Sir:

Enclosed herewith find a copy of the brief of the Cherokee Nation in case Cherokee D. 389, John R. Trott. Please acknowledge receipt of the same, and oblige,

Yours truly,

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
—
ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 389.

Muskogee, Indian Territory, December 19, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, rejecting the application of John R. Trott for the enrollment of himself as a citizen by blood, and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage, of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.
Acting Chairman.

Enclosure H. No. 363.

Refer in reply to
the following:
Land
76077-190~~3~~2.

Copy.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs.

Washington. Jan. 16, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted, herewith, the record and proceedings had in the matter of the application of John Ross Trott, for the enrollment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation.

On December 10, 1902, the Commission rendered a decision in this case, finding that the applicant and his wife moved from the Cherokee Nation to the State of Illinois, about January 1898, and that neither of them have resided in said Nation or Indian Territory since that time, and that paragraph nine of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), providing:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship", is applicable in this case and that the application herein should be denied.

The record evidence showsthat the applicant is 63 years old, that his post-office address is Verden, Illinois, that he was married to his present wife, a white woman, in 1866, that the applicant and his wife have resided in the Indian Territory since their said marriage, at divers times, in all about eleven years.

The record stated that on September 7, 1896, John R. Trott filed with the Commission his petition for admission to citizenship in the Cherokee Nation as a Cherokee by blood, under the Act of Congress, approved June 10, 1896 (29 Stats., 321) and that on the same day his said wife likewise made application under said Act for admission to citizenship as an intermarried person; that on November 24, 1896, the said John R. Trott and his said wife were, by the Commission admitted to citizenship in said Nation, certificates of admission issued to them, and no appeal taken from said decision. From that date till the passage of the Act of Congress of June 28, 1898, the said John R. Trott and wife were recognized citizens of the Cherokee Nation, unless such citizenship was forfeited by their own act.

The only authority given the Commission to again investigate the right of these applicants to citizenship in the Cherokee Nation is that part of Section 21, of the said Act of 1898, providing "and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto and their descendants born since such rolls were made with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

It is not claimed that the certificates of citizenship held by these applicants were obtained by fraud or without authority of law and the only reason assigned for the refusal of their applications is the fact that they left the Cherokee Nation in January 1898, and moved to Illinois where they have since resided. When they left the

Cherokee Nation they were duly admitted citizens thereof and left their effects in the Nation so as not to lose their rights to citizenship by reason of Cherokee law.

The Act of June 28, 1898, had not been passed, and when passed, it made no provision for notice to those persons who claimed citizenship therein and resided without the Territory nor did it provide any time within which they might return and thereby maintain their citizenship. It did provide that "no person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." These applicants had removed to the Cherokee Nation and been granted certificates of citizenship therein by the Commission in 1896, and remainedthere until January 1898. Now at what particular time between January, 1898, and June 28, 1898, must these applicants have again removed to said Nation to preserve their rights of citizenship therein. The provision itself fixes no time unless taken literally and construed to be an arbitrary rule that was to take effect on said June 28, 1898. This view has not heretofore been taken by the Department, nor has any time limit been fixed thereby. In view of the fact that adjudications are constantly arising in which this same question comes up, the office suggests that some construction be had of said provision fixing the time when such removal must have been made to carry with it the rights of citizenship if such right is alone dependent on removal.

In the case at ~~xxxx~~ bar the office considers that applicants have not lost their right to be enrolled as citizens of the Cherokee

Nation and recommends that the decision of the Commission herein be set aside and the parties enrolled.

Very respectfully,

W. A. JONES,

Commissioner.

W.H.B.

L.

D.C.23143-1903.

DEPARTMENT OF THE INTERIOR. GMR.

ITD 450-1903. WASHINGTON. August 14, 1903.

L.R.S.

The Commission

to the Five Civilized Tribes.

Gentlemen:

January 16, 1903, the Commissioner of Indian Affairs submitted the Cherokee enrollment case of John Ross Trott and wife, Emma A. Trott, and recommended that your decision adverse to the applicants be not approved. A copy of his letter is inclosed.

It is directed that you advise the applicants and the attorney for the Cherokee Nation of the recommendation of the Indian Office, and that 30 days from the date of said notice will be allowed in which to file any argument they may desire, and that a copy of such argument must be served upon the opposite party. See your letter of December 19, 1902 (Cherokee D.389).

Respectfully,

M. W. Miller,

Acting Secretary.

M29

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-389.

Muskogee, Indian Territory, August 29, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of Departmental letter of August 14, 1903, in the matter of the application of John R. Trott for the enrollment of himself as a citizen by blood and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation.

In accordance with the instruction contained in said letter you are advised that you will be allowed thirty days from the date of this notice in which to file with the Commission, for transmission to the Secretary of the Interior, any argument which you may desire. You will be required to furnish the applicant with a copy of said argument.

Respectfully,

Chairman.

Enc. D-199.

MLG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-389

Muskogee, Indian Territory, February 19, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, rejecting the application of John R. Trott for the enrollment of himself as a citizen by blood and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation, was reversed by the Secretary of the Interior, as to John R. Trott, on February 6, 1904.

Respectfully,

Commissioner in Charge.

(COPY)

Land
20431-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

March 1, 1907.

The Honorable,
The secretary of the Interior.

Sir:

There is enclosed the report of Commissioner Bixby, dated February 21, 1907, in which he says that on December 10, 1902, the Commission to the Five Civilized Tribes rendered its decision rejecting the application of John R. Trott for the enrollment of himself as a citizen by blood and for the enrollment of his wife, Emma A. Trott, as a citizen by intermarriage of the Cherokee Nation.

On February 6, 1904 (I.T.D. 6203, 80013, 8413-1903), the Department reversed the decision of the Commission and the applicants were ordered enrolled, John R. Trott as a citizen by blood, and his wife, Emma A. Trott as a citizen by intermarriage of the Cherokee Nation.

On February 9, 1904, the Department directed the Commission to not issue a certificate of allotment to Mrs. Trott until the question of the right of intermarried white persons to enrollment as citizens of the Cherokee Nation had been decided by the courts

The record shows that John R. Trott was born about 1839; that during the war of the Rebellion he left the Cherokee Nation and was married to Emma A. Trott, at Vir den, Illinois, in 1866, or 1877; that he returned to the Cherokee Nation about 1877 and again left that nation in 1884; and that he returned thereto in 1893 or 1894.

Further proceedings in the matter of the right of Emma A. Trott to enrollment were had at Muskogee, I. T., on January 4, 1907. The testimony taken on that date is enclosed.

In view of the decision of the United States Supreme Court on November 5, 1906, in the case of Daniel Red Bird, et al., vs the United States, and under the provisions of the Act of June 28, 1898 (30 Stat. L., 495), the Office concurs in the recommendation of Commissioner Bixby that the Department rescind its decision of February 6, 1904, ordering Emma A. Trott enrolled as a citizen by intermarriage of the Cherokee Nation, and that her application for enrollment be denied.

Very respectfully,

EBM-D

C. F. Larrabee
Acting Commissioner

(COPY)

Y.P.
L L B

DEPARTMENT OF THE INTERIOR,

I.T.D. [illegible]-1907 WASHINGTON.

L R S

March 4, 1907

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir: In accordance with the recommendation contained in your letter of February 21, 1907, and Indian Office letter of March 1, 1907, submitting your report, the decision of the Department of February 6, 1904, granting the enrollment of Emma A. Trott as a citizen by intermarriage of the Cherokee Nation, is rescinded, and her application to be so enrolled is denied.

A copy of Indian Office letter is inclosed.

The papers in the matter and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

(Signed) E. A. HITCHCOCK
Secretary

1 inc. and 2 to Ind. Of.

W.C.F.
3-4-07

REFER IN REPLY TO THE FOLLOWING:

Cherokee
D 389

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 14, 1907

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that on March 4, 1907, the Department rescinded its decision of February 6, 1904, granting the application for the enrollment of Emma A. Trott as a citizen by intermarriage of the Cherokee Nation, and denied her application for such enrollment.

For your information a copy of the Departmental letter referred to is enclosed herewith.

Respectfully,

Commissioner

L M B
Encl. B-27

THE MATTER OF THE APPLICATION

John R. Trott et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

1. Original testimony. September 22, 1900
2. Memo of application " 22, 1900
3. Additional testimony March 26, 1901
4. Receipt for copy of testimony.

E. Notice of final consideration [illegible]

[illegible]

F. Brief of applicant.

G. Supplemental testimony and order closing testimony, Feb. 28, 1902

OCT 12 1907

[illegible] - E

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 24 1900

[illegible] I[illegible],
[illegible]
[illegible], [illegible], [illegible].

[illegible] of [illegible] Illinois, [illegible] for the enrollment of himself and wife as citizens of the Cherokee Nation, [illegible] Illinois [illegible]. Hastings, [illegible] as follows:

[illegible] your name? [illegible] William [illegible]. Frost.
[illegible] your age? [illegible] in October.
[illegible] your post office address? [illegible], Illinois.
[illegible] district ~~xx xxx~~ in the Cherokee Nation [illegible].
Are you a recognized citizen of the Cherokee Nation? [illegible], [illegible].
[illegible] myself and wife.
[illegible] degree of blood do you claim? [illegible].
[illegible] a [illegible] authentic [illegible] of 18[illegible]? [illegible] not think it does.
Q You present a certificate of admission signed by [illegible], Secretary to the Commission to the Five Civilized Tribes, certifying that [illegible], that you were admitted to citizenship on the [illegible] day of November, 18[illegible], by said Commission. Are you the identical William [illegible] Frost [illegible] your wife, Anna, the identified Anna [illegible]. Frost mentioned in the certificate? [illegible] The same, [illegible] her name [illegible]. Frost on the roll.
Q Where do you reside, Mr. Frost? A At the present time, [illegible], Illinois.

[illegible], [illegible] of the Cherokee [illegible]:

Q How long have you lived [illegible], Illinois? A Since the third day of this year.
Q Where did you live before [illegible]? A [illegible]sville, Illinois.
Q How long have you lived [illegible]sville? A About six [illegible].
Q Where did you move from [illegible]ville? [illegible] Before that I was in [illegible].
Q How long have you been living in the State of Illinois? A About three years.
Q How long have you lived there continuously, for the last three years? A Yes, sir.
Q Where were you born? A [illegible].
Q Always lived in the State of Illinois? A [illegible], sir.
Q How long did you live in the State of Illinois first? A I came here when I was four years old.
Q Where did you live before [illegible]? A I was out here eight years.
Q Where were you married? A In [illegible], sir.
Q When? A 1890.
Q Now, immediately before you came here how long have you lived in the State of Illinois? A In [illegible] 1889 I was living here, and in [illegible] went back to Illinois.
Q Where were you living in June [illegible], [illegible], two years ago, in Illinois? A [illegible] was.

The applicant:--I knew that the [illegible] and I left all my property here when I moved away with my father. When he left they were stored with his goods at [illegible]. Frost's house where they are at the present time. I left [illegible] time on account of my wife's health. I have property in the Territory. I own town lots in the town of Vinita and in the town of [illegible], also.

[illegible]. Hastings:

Q Your wife is with you in the State of Illinois, and has been?
A Yes, sir.
Q Keeping house? A Yes, sir.

William O. Trott---2.

What is some of your personal effects with your father's goods?
Household effects--furniture.

1894 payment; page [illegible], #43[illegible], William O. Trott, Cooweescoowee.

Com'r Needles:
The name of William O. Trott is found upon the pay roll of 1894 and he also presents Certificate of Admission by the Dawes Commission under date of November 24, 1896, admitting himself and his wife, Fannie F. Trott, himself as a citizen by blood and his wife as an intermarried citizen. He being duly identified according to the name and number of the roll, but on account of the matter of residence, final judgment as to the application for himself as a citizen by blood and his wife as an intermarriage citizen, will be suspended and their names will be placed upon a doubtful card

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 28th day of September, 1900.

Commissioner.

To be filed in D. 390, William O. Trott.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of John R. Trott for the enrollment of himself and wife as citizens of the Cherokee Nation.

Applicant represented by W. P. Thompson, Vinita, I.T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified by registered letter February 10, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee on the 26th day of February, 1902. Receipt was acknowledged of the Commission's letter. The applicant on said day, the 26th day of February, 1902, appeared by his attorney, W. P. Thompson, and by agreement between said attorney and the representative of the Cherokee Nation present the case was continued until the 28th day of February, 1902. The case is called this day, to wit the 28th day of February, 1902, and the applicant again appears by his attorney, W. P. Thompson.

TESTIMONY IN BEHALF OF THE CHEROKEE NATION.

L. B. BELL, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A L. B. Bell.
Q What is your postoffice? A Vinita, 63 years old, very near 64.
Q Do you know Dr. John R. Trott, who formerly lived at Vinita?
A Yes, sir, I know him.
Q Does he live up there now? A No, sir.
Q How long has he been gone? A He has been gone several years.
Q Do you know where he is? A Don't know where he is, my understanding—Well, they went into Missouri first from there, and I think Oscar Trott is up there, and I don't know what ever become of Ross.
Q Well, he has never returned to the Cherokee Nation in the last three or four years, that is, to live? A Never come back to Vinita or any part of the Cherokee Nation that I have been in.
Q You are an old resident of Vinita? A Yes, sir. I have been living there for years and years.
Q You knew him well? A Yes, sir, for fifty years I reckon.

P. O. REUTER, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A P. G. Reuter, postoffice address Muskogee, age 26 years.
Q Are you the chief clerk for the enrolling division of the Cherokee Nation, enrollment division? A Yes, sir.
Q And as such have charge of it? A Yes, sir.
Q I will ask you whether or not that you had any correspondence through this division with Dr. J. R. Trott. A We have had correspondence with one J. R. Trott, don't know about his title.
Q Well, as is he the applicant in this case, inquiring about his case?
A Yes, sir.
Q Well, where was that letter addressed from? A Virden, Illinois.
Q Have you that letter? A I don't know, well—
Q Was it of recent date, you remember the date of the letter? A Yes, it was of recent date, I don't remember the exact date. I find

that the letter was dated February 24, 1902.

MR. THOMPSON: You don't know where he lived, do you, Mr. Reuter? A No, sir, I do not.

Q You don't know where his present residence is? A No, sir.

Q (Turning to Mr. Bell) Do you, Mr. Bell? A Oh, I guess he is where he wrote that letter.

Q I am talking about what you know? A I take it that he was alive when he wrote the letter.

Q You don't know where his present residence is, do you , Mr. Bell? A I don't know even the state he is in.

COMMISSION: Do you submit the case?

MR. THOMPSON: Yes, sir.

COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit the case to the Commission, and the same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

MR. THOMPSON: I desire to submit brief in behalf of applicant, setting forth the grounds upon which he thinks he is entitled to enrollment.

—::—::—::—::—

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 1st day of March, 1902.

Commissioner.

D. 380.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of William O. Trott for the enrollment of himself as a citizen of the Cherokee Nation.

Applicant represented by W. P. Thompson, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified by registered letter February 10, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up by the Commission at its offices in Muskogee for final consideration on the 26th day of February, 1902. Receipt was acknowledged of the Commission's letter, and the applicant, by his attorney, appeared before the Commission on the 26th day of February, 1902, and by agreement with the representatives of the Cherokee Nation present the case was continued until the 28th day of February, 1902. The case this day being called, to wit the 28th day of February, 1902, the applicant appears by his attorney, W. P. Thompson.

The attorney for the applicant files a brief in the matter of the application of the said William O. Trott for the enrollment of himself and wife as citizens of the Cherokee Nation, and requests that a copy of the testimony had this day in the matter of the application of John R. Trott, the applicant's father, whose name appears upon Doubtful Card No. 389, be filed with and made a part of the record in this case. The attorney for the applicant and the representatives of the Cherokee Nation present submit the case to the Commission. The same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

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Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the above proceedings, and that the same is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

[illegible] D390

Cherokee D 390.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William O. Trott, as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22,1900, William O. Trott appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on March 26,1901, and on February 28,1902.

The records of this Commission show that on November 24,1896, William O. Trott was admitted to citizenship in the Cherokee Nation, as a Cherokee by blood; that his wife, Fannie W. Trott, was admitted to citizenship as a citizen by intermarriage of the Cherokee Nation, by the Commission to the Five Civilized Tribes, under the Act of Congress, approved June 10,1896 (29 Stats.,321), and that no appeal was taken from said decision. The said William O. Trott, is identified on the 1894 Pay Roll of the Cherokee Nation.

It further appears that the said William O. Trott and Fannie W. Trott, removed from the Cherokee Nation to the State of Illinois in 1897; that they have not resided in said Nation or Indian Territory since that time, and that they were not residents of said Nation or Territory at the date of the application herein.

Paragraph nine, Section twenty-one, of the Act of Congress, approved June 28,1898, (30 Stats.,495) provides:

> "No person shall be enrolled who has not heretofore removed to, and in good faith settled in the Nation in which he claims citizenship".

It is, therefore, the opinion of this Commission, that the application for the enrollment of William O. Trott, as a citizen by blood of the Cherokee Nation, and the application for the enrollment of Fannie W. Trott, as a citizen by intermarriage of said Nation, should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

this____________________

Cherokee D 390.

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DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of William O. Trott for enrollment as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, William O. Trott appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage of said Nation; but as the status of persons applying for enrollment as citizens by intermarriage of the Cherokee Nation is not fixed at this time, the application for the enrollment of Fannie W. Trott, as such, will not be passed upon or considered in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 26, 1901. Copies of the testimony taken at Muskogee, Indian Territory, February 28, 1902, in the matter of the application for the enrollment of John R. Trott, et al., as citizens of the Cherokee Nation are made a part of the record herein. The record further shows that on July 29, 1902, the Commission rendered its decision in said case, which was approved by the Department October 31, 1902; that on July 13, 1903, the attorneys for the applicants filed a motion to reopen said case; and that on July 27, 1903, the Department rescinded its former action in the matter and returned said case to the Commission for readjudication.

The evidence shows that on November 24, 1896, the said William O. Trott was admitted as a citizen by blood of the Cherokee Nation by the Commission to the Five Civilized Tribes, under the Act of Congress, approved June 10, 1896 (29 Stats., 321), and that no appeal was taken from said decision. The said William O. Trott is identified on the 1894 Cherokee strip payment roll.

It further appears that the applicant resided in good faith in the Cherokee Nation for several years prior to the fall of 1897, at which time he left said Nation for the benefit of his wife's health and has not since returned. At the time of his removal, he left certain property and effects in the Cherokee Nation and has maintained ownership of the same up to the date of his application.

During his absence he also maintained possession and control of some town lots in said Nation; and it is not shown that he has since the date of his admission in 1896 severed his tribal relations with the Cherokee Indians, or become a citizen of any other government.

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain, et al. (I. T. D. 2900-1903), that the said William O. Trott should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this OCT 9 190

D-390 Cher.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 29, 1902.

In the matter of the application of Fannie W. Trott for enrollment as a citizen by intermarriage of the Cherokee, and for the enrollment of her husband, William O. Trott, as a citizen by blood of the Cherokee Nation.

Fannie W. Trott, being first duly sworn, and examined by the Commission, testified as follows:

Q What is your name? A Fannie W. Trott.
Q How old are you? A Twenty-eight.
Q What is your postoffice address at this time? A Madison, Illinois.
Q Are you an applicant for enrollment as an intermarried citizen of the Cherokee nation? A Yes sir.
Q What is your husband's name? A William O. Trott.
Q When were you married to William O. Trott? A In 1890, 12 years ago.
Q Where were you married? A I was married in Morrisonville, Ill.
Q Mr. Trott is a Cherokee citizen by blood is he? A Yes sir.
Q Had you ever been married before your marrage to Mr. Trott? A No sir.
Q Had he ever been married before his marriage to you? A No sir.
Q Have you and Mr. Trott lived together as husband and wife ever since the date of your marriage up to the present time? A Yes sir.
Q You have never been separated? A No sir.
Q You and he were living together as husband and wife on the first day of September, 1902? A Yes sir.
Q How soon after your marriage to Mr. Trott at Morrisonville, Ill., did you and he come to the Territory? A I think about two years--ten years ago as well as Iremember.
Q Did you come to the Cherokee nation? A Yes, to Afton, in the Cherokee nation.
Q How long did you and he live in the Cherokee nation after you came here? A About four years.
Q Were you living all the time at or near Afton? A Right at Afton, yes.
Q Where did you go after you left Afton? A Went to Franklin, Ill.
Q Do you remember when you went to Franklin, Ill.? A I think we left Afton about the latter part of 1897, as well as I remember.
Q November or December, 1897? A Yes.
Q You and your husband, William O. Trott left Afton the latter part of 1897 and went to Franklin, Ill.? A Yes, I havn't just figured it out, but it was about that; early in '98 of the latter part of '97.
Q Where have you and your husband, William O. Trott, lived since you left Afton in the latter part of 1897 up to the present time? A We went to Franklin and from there we came down to Madisonville.
Q Have you lived in the state of Illinois ever since? you left After in the latter part of 1897 or first of 1898? A Yes, all my life with the exception of what time I was here.
Q My question now was this: Have you and your husband William O. Trott, lived in the state of Illinois ever since you left Afton, Indian Territory in the latter part of 1897 up to the present time? A Yes, we have.
Q Yoŝu and he have not lived in the Territory or the Cherokee nation since you left it in 1897? A No sir.
Q You are living in the state of Illinoise at this time? A Yes sir.
Q Your husband is a practicing physician? A No, a druggist.

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Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane

Subscribed and sworn to before me this October 29th, 1902.

B. W. Jones
Notary Public.

Cherokee D. 390.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Tahlequah, I. T. October 15th 1903.

In the matter of the application for the enrollment of William O. Trott et al as citizens of the Cherokee Nation.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission to the Five Civilized Tribes in this case rendered on October 9th 1903 and asks that the same be forwarded to the Honorable Secretary of the Interior for Review..

Statement.

The applicant in this case is a son of John R. Trott whose case is pending before the Honorable Secretary of the Interior on appeal from the Commission to the Five Civilized Tribes, same being number Cherokee D 389; and all of the testimony introduced in the case of John R Trott was made a part of the record in this case. In the case of John R Trott Cherokee #389 we have at length expressed our reasons why we do not believe that he should be enrolled as a citizen of the Cherokee Nation and refefence is respectfully made to the brief filed on part of the Cherokee Nation before the Honorable Secretary of the Interior in said case.

Respectfully,

W W Hastings
JCS
J. C. S. Attorney for the Cherokee Nation.

C763

COPY. Cherokee R 776.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, on September 22, 1900, William O. Trott appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself as a citizen by blood and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage of the Cherokee Nation. The application for the enrollment of said William O. Trott has been heretofore disposed of and his right to enrollment will not be considered in this decision. The records further show that on July 29, 1902, the Commission to the Five Civilized Tribes rendered its decision denyimg said Fannie W. Trott the right to enrollment as a citizen by intermarriage of the Cherokee Nation, and that said decision was on October 31, 1902 (I.T.D.4963,5375,5563,5900,6624-02), duly approved by the Department. Thereafter on July 27, 1903 (I.T.D.4963-02, 5772-03), the Department rescinded its decision of October 31, 1902, and remanded said case to the Commission to the Five Civilized Tribes for readjudication.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Fannie W. Trott, was married in the year 1890 to one William O. Trott, a Cherokee by blood, and that application was made to the Commission to the Five Civilized Tribes, acting under authority of the provisions of the Act of Congress approved June 10, 1896 (29 Stat.,321), for the admission to citizenship in the Cherokee Nation of said William O. Trott as a citizen by blood, and said Fannie W. Trott as a citizen by intermarriage of said Nation; that said application was granted and no appeal taken therefrom.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the case of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, appealed from the Court of Claims, and following the ruling of the Department in the case of Thomas A. Williams (I.T.D.1980-03), Fannie W. Trott is not entitled to enrollment as a citizen by intermarriage of the Cherokee Nation, and her application for enrollment as such is accordingly denied.

SIGNED Tams Bixby.
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 8 1907

Before the Commission [illegible] Five Civilized Tribes.

In the matter of the application
of William O. Trott for enrollment
of himself and wife as citizens
of the Cherokee Nation.

Brief of Applicant.

The facts in this case are that applicants were admitted by the "Dawes Commission" on the 24° day of November, 1896, in their case No. 5342; that applicants have fully identified themselves as the identical William O. Trott and Fannie W. Trott as being the identical William O. Trott and Fannie W. Trott whose names appear on the certificate of admission in the above entitled case; that he is at present living at Madison, Ill. where he had gone on account of the health of his wife, but that he left all of his effects consisting of household goods and other things stored at his Uncle William L. Trott in Vinita, Cherokee Nation as well as a farm from which he has been receiving rents all of the time as well as a number of town lots all of which are in the Cherokee Nation, and that he always considered the Cherokee Nation as his home and lived there as long as he could safely do so consistent with his wife's health.

Argument

This applicant and his wife made application to the Commission to the Five Civilized Tribes under the Act of Congress of June 10 1896, and his case was determined by them favorably, and they were duly admitted to citizenship in Case No 5342, on the 24° day of November, 1896 by said Commission, from which decision of said Commission there was no appealby the Cherokee Nation and under said decision and act of Congress the decision was final and the rolls upon which the Commission decided that they were then entitled to be enrolled under the terms of the Act of June 10° 1896 are hereafter to be "held and considered to be the true and correct rolls of persons entitled to the rights of citizenshipin said several tribes Provided, That if the person or tribe be aggrieved with the decision of the tribal authorities or the Commission provided for

in this act, it or he may appeal from such decision to the United States Court, Provided, however, that the appeal shall be taken within sixty days, and the judgement of the court shall be final." The record in this case shows that there was no appeal and therefore the decision of the commission was final and the Cherokee Nation is concluded from further contesting the rights of this applicant; that the Cherokee Nation once having been the right of appeal the applicant has a fixed right in the decision and he cannot be constitutuonally be subjected to further chance or hazzard by subjecting him to a further trial of the same issue for which final judgement has been had in his favor. "Rights secured by judgement cannot be divested". Wade on Retroactive Laws Sec. 171, page 203. First Black on Judgements pages 373, 374375, Sec 298, Black on Constitutional Prohibitions Sec 497 pages 250, 251 252 Sec298 pages 252 and 253.
Statutes authorizing the opening of judicial decisions impairs vested rights and infringes on the judicial department of the government Sec 199, page 253 Black on Constitutional Law also says on page 259 sec 99 "A case which has been submitted for decision is not subject to any control by a legislature." Sutherland on Statutory Construction Sec. 480 page 628 is conclusive of this point.

For further argument petitoner says that the evidence of himself and W.L.Trott shows that he left all of his household goods, effects farms and town lots and property within the limits of the Cherokee Nation, he has never become a citizen of any other government but has always regarded the Cherokee Nation as his home and has only absented himself because of the ill health of his wife under the advice of his physicians and therefore has not forfeited his citizenship under Sec 2 Art I, of the Constitution of the Cherokee Nation which says in words as follows "Whenever any citizen shall remove with his effects out of the limits of the ~~Cherokee~~ Nation and become a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease." See Elks Vs Wilkins 112 U.S. page 643, L.C.P. Edition as to what it takes to make an Indian a citizen of another Nation or government.

I therefore respectfully submit that the applicant and his wife are entitled to enrollment as citizens of the Cherokee Nation.

Respectfully submitted,

Attorney for Applicant.

CASE OF WILLIAM O. TROTT.
- - - - : : : - - -

To The Hon. Sec. of Interior.

In my application which has been rejected by the Dawes Commission and is now before you for final decision, I desire to make a plain statement to you.

I went to the Indian Ter, Cherokee Nation when a small child, a little over thirty years ago and have resided there since that time with the exception of such time as I was away at school or temporally away as a clerk.

I have always been recognized as a Cherokee. My Grand parents are on the Cherokee rolls as well as my own parents. My fathers' brother is now a Member of the Cherokee Council, W. L. Trott.

I have invested all my surplus money in real estate in the Cherokee Nation and now hold deeds for Town Lots in said Nation. Given me by the Cherokee Nation. I have never owned a dollars' worth of property outsid of the Cherokee Nation. I and all my people have even participated in all payments or distribution of money ever made in the Cherokee Nation.

Our claim to citizenship has never been questioned until the censes roll of 1880 was made a lawful or authenticated roll by which citizenship should be tested. At that time I was away at school and they missed enrolling me.

When the Dawes Commission came first to enroll the citizens, the Cherokee Nation also began an enrollment. I applied to the enrolling Agent on part of Cherokee Nation for enrollment but was rejected because I was not on the 1880 roll. This enrollment was said to be final and I then applied to the Dawes Commission and they enrolled us as citizens. I was residing there at that time, and the Curtis Act provided that the Cherokee Nation could appeal or contest the cases of any one admitted by the Dawes Commission (In the U. S. Court Hon. Wm. Springer) and while they did contest many hundreds of such cases, ours was not contested. The Curtis Act made this a final decission in citizenship cases.

In 1897, my wife lost her health and by the advise of Dr. Fortner (who attended her) I left the Nation for a more Northern climate. My wife is till in very poor health and I have feared to return to the Nation with her.

I am a druggist by profession and have simply been a clerking for a living wherever I could get work.

When admitted to citizenship by the Dawes Commission, there was no law restraining any one as to residence except Cherokee Act which forfeits citizenship if you remove from the Nation with all of your effects and remain away two years and become a citizen of another government.

When I left the Nation, I left my effects there except necessary wearing apparel and books.

When this enrollment that is now under consideration began I went down to enroll and was placed on the doubtful list as I was informed at that time for forfeiting citizenship under the Cherokee law under the investigation of Doubtful rolls.

I furnished affidavits establishing the fact that I had not removed my effects from the Nation and become a citizen of another government.

Now this rejection purports to reject me on an entirely different Law. Curtis Act 1898 for non residence. When this last roll was made. Had I known this investigation was to be decided under Act 1898 or other than Cherokee Law, I should have deemed it necessary to have given reasons for non-residence.
The health and I believe life of my wife depended on my leaving that climate, and to return and expose her health (which is now poor) to the same causes that undermined it at first, I could never think of doing in her present condition though I should loose everthing I possess which is on the Nation for I have nothing elsewhere.

I have now made you an honest statement of my case and I feel that your sence of justice (taking into consideration the entire situation) will prompt you to give such a final decission in this matter as will not disinherit and ostracize, me from all my people who are citizens of the Cherokee Nation.

I am Sir Your Obedient Servent.

William Oscar Trott.

Subscribed and Sworn to
before me this the 2nd. day
of September 1902.

C. L. Gibbs.

Notary Public.

S E A L.

DEPARTMENT OF THE INTERIOR
Received
SEP 8 1902.
No 5563.
Indian Territory Division.

Vinita, Indian Territory.

August 30th 1902.

TO WHOM IT MAY CONCERN :

Personally appeared before me, W. L. Trott, who upon oath states that he is fifty eight years old and has resided in the Indian Territory since 1857, and that he is personally acquainted with Oscar Trott, who resided at Vinita, Indian Territory, during the year 1896, when he was enrolled as a Cherokee citizen by the Dawes Commission setting at Vinita. He Oscar Trott had resided at Vinita and vicinity for some time previous and for some time after the enrollment, which took place sometime during the fall of 1896.

W. L. Trott. M. C.

Subscribed and sworn to before me this the 30th day of August 1902.

Frank L. Burckhalter.

Notary Public.

My Commission xpires Feb. 14th. 1905.

S E A L .

DEPARTMENT OF THE INTERIOR.
Recieved
SEP 8 1902.
Enc. No 2. 5563.
Indian Territory Division.

(Cherokee D. 590)

Marionville, Ill, Sept. 2. 1902.

I hereby certify that Mrs. Fannie Trott, wife of W. J. Trott was brought here sick from the Indian Territory during the summer of 1896. Since that time her health has been delicate and I have always understood that Indian Territory did not agree with her. Part of this time she has been under my treatment and all the time more or less under my observation.

Jerome Thompson. M. D.

Subscribed and sworn to before
me this the 2nd. day of September
1902.

Louis Johnson.
Notary Public.

S E A L.

DEPARTMENT OF THE INTERIOR

Recieved
SEP 3. 1902.

Enc. #3 of No. 5560.

Indian Territory Division.

Vinita, Indian Territory.

August 30th 1902.

To Whom It May Concern :

This is to certify that in the year 1906 or 1897, I examined the wife of Oscar Trott, who was very ill and advised a serious operation, whether I advised him to take her out of the Indian Territory and back to her mother in Illinois, I am not certain, probably I did; at least it was the proper thing to do.

Very Respectfully Submitted.

B. F. Fortner. M. D.

Subscribed and sworn to before me this the 30th day of August 1902.

Frank L. Burckhalter.

Notary Public.

My Commission expires Feby. 14th. 1905.

S E A L.

DEPARTMENT OF THE INTERIOR.
Recieved
SEP. 3 1902.

Enc. 1. of No. 5563.
Indian Territory Division.

Morrisville, Christian County, Illinois.

Sept. 2nd. 1902.

In the summer of 1896, Mrs. Fannie W. Trott, wife of W. J. Trott, was sent up from the Indian Territory to my house here. A very sick woman. She was confined to her bed for three or 4 months and since then she has been confined to her bed one third of the time. Her husband, W. J. Trott was compelled to seek employment North to support her. I have never considred her in a condition to go back to the Territory and live there since.

J. W. Campbell M. D.

Subscribed and sowrn to before
me this the 2nd. day of Sept.
1902.

Louis Johnson.

Notary Public.

S E A L.

Department of the Interior.

Received.

Sep. 8 1902.

Enc. No. 4. of No. 5565.

Indian Territory Division.

United States of America.

Northern District.

Indian Territory. S. S.

I, S. F. Parksa, Notary Public within and for the above named District and Territory, do hereby certify that the within and foregoing three pages of affidavit of William Oscar Trott, one page affidavit of W. [illegible] Trott, one page affidavit of Jerome Thompson, one page affidavit of [illegible] F. Fortner and one page affidavit of J. W. Campbell, are true and correct copies of the originals as exhibited to me, together with the endorsements thereon by the Department.

S. F. Parks

Notary Public.

My Commission expires September 25th 1904.

Department of the Interior,

Washington.

In the matter of the application for the enrollment of William O. Trott et al as citizens of the Cherokee Nation.

Cherokee D #390.

Brief on part of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully objects to the motion for review and rehearing filed in this case by applicants counsel and contends that the decision of the Honorable Secretary of the Interior of October 31st 1902 was just and correct and should not be set aside.

We have argued the legal questions involved in this case in the case of the father of the said William O. Trott namely John R Trott et al Cherokee D # 389, to which reference is respectfully made.

In addition to the argument used in that case it is desired to call the attention of the Department to the argument of counself for the applicants in this case with reference to the effect of the act of 1896 wherein counsel for applicants attempts to draw a comparison between the decision in the Stonewall J. Rogers case (Cherokee R # 394) who was rejected by the Commission and the applicants in this case who were admitted. The Cherokee Nation does not contend but that the applicants were admitted in 1896 and if they had taken up a permanent residence in the Cherokee Nation and remained here continuously subsequent to that time they would have been entitled to enrollment but it is because of their continuous residence in the state of Illinois, outside of the limits of the Cherokee Nation, they they are not entitled to be enrolled as citizens of the Cherokee Nation.

Respectfully Submitted,

W W Hastings

Attorney for the Cherokee Nation.

IN THE DEPARTMENT OF THE INTERIOR.

----o0o----

In re Application of)
William O. Trott and Fannie W. Trott :
for Enrollment as citizens of the)
Cherokee Nation. :

----o0o----

MOTION FOR REVIEW AND REHEARING.

And now comes the applicants, William O. Trott and Fannie W. Trott, by their attorneys and move that the decision of the Secretary herein dated October 31, 1902, be set aside, that the said cause be reviewed and a rehearing granted for the reasons set forth in the brief hereto attached.

Harry G. Kimball
Wm Henry White
Attorneys for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re Application of)
William O. Trott and Fannie [illegible]. Trott :
for Enrollment as citizens of the)
Cherokee Nation. :

----oOo----

BRIEF FOR APPLICANTS ON REHEARING.

This cause was decided on Octbber 31, 1902, before the final decision was rendered in the Yeargains cases on March 16, 1903. Since the latter decision the question of the intent of applicants in leaving the Cherokee Nation is a vital one in every case and also the fact that such applicants did not remove their property is decisive.

Briefly, the Yeargains cases held that if one is a citizen of the Cherokee Nation and lives there he can only lose his rights by doing all of four things, viz:

1. Remove from the Nation;
2. Take all his effects;
3. Become a citizen of another government;
4. Do all of the above with the intent of permanently abandoning the Cherokee Nation.

This decision is explicit that all of these must concur and if any applicant shall not have done any one of them he has not forfeited his rights but must be enrolled.

The Commission has found the name of William O. Trott on the roll of 1894 and properly so. He and his wife were readmitted by the Commission in 1896. There is no question that in 1897 when they removed to Illinois they were entitled to all the rights of citizens of the Cherokee Nation.

Have they, then, done the four things which work a forfeiture of their rights? The record shows they have done the first only, which, under the Yeargains decision, does not work a forfeiture. They removed in 1897.

They did not take any of their effects excepting only their wearing apparel. They left in the Cherokee Nation all their property. The following is from the record:

> The applicant: "I knew what the Cherokee law was and I left all my effects here when I moved away, with my father. When he left they were stored with his goods at W. L. Trott's house where they are at the present time. I left at the time on account of my wife's health. I had property in the Territory. I had town lots in the town of Vinita and, in the town of Afton, also."
>
> Wm. L. Trott testified that said applicant left to seek employment and for his wife's health.
>
> "Q. Did he leave any effects in your hands? A. Yes, sir, he left his effects when he left here with J. R. Trott, the father, and when John Ross Trott left he left the household effects with me, he left here a short time before his father did. And when J. R. Trott left he left his effects and Oscar's effects with me.
>
> Q. And have you had them ever since? A. Yes, sir.
>
> Q. What does it consist of? A. It consists of household goods and furniture; Oscar left some town property in Afton and Vinita."

Nor did William C. Trott become a citizen of Illinois. In fact he could not if he had tried to do so. Elk vs. Wilkins, 112 U. S., 94. But there is not a bit of evidence showing an effort to do so.

The intent of the applicants in removing is not only laudable but is consistent with their Cherokee citizenship. His wife was sick. He went hoping to improve her health. Read the testimony of applicant, William C. Trott and affidavit of Dr. Campbell. What would the reader of this or any man do under these conditions? Certainly go north, east, south or west, anywhere to save his wife's life. The Cherokee law as construed in the Yeargains cases looks to the intent with which the act is done.

These applicants should be enrolled, therefore, because:

They have not removed their effects from the Nation.

They have not become citizens of another government.

The intent was to preserve the life of Mrs. Trott and not to lose their citizenship.

THE ACT OF 1896.

Stonewall J. Rogers was rejected by the Commission because he applied to the Commission in 1896 and was rejected. No appeal was taken in 1896. The Commission now says that Rogers rejection in 1896 was final and that the Commission has no right to interfere with that decision.

William C. Trott and wife applied to the Commission in 1896 under the same law and were enrolled by the Commission. No appeal was taken in 1896. The Commission has interfered with that decision and has rejected these applicants. Consistency, thou art a jewel!

The last brief we wrote was in the Rogers case. What shall we do now? The Commission is on both sides of the fence. Shall we straddle, too?

We ask that careful consideration be given our brief on this point in the Rogers case. It expresses our view of the law and is, in our opinion, the only rational view. Certainly, applicants have ground for complaint when such utterly irreconcilable opinions are rendered. Uniformity is their due.

If it be right to refuse to disturb the 1896 decision in the Rogers case then how can the 1896 decision be disturbed in this case?

Respectfully submitted,

Harry G. Kimball

Henry White

Attorneys for Applicants.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 390.

Muskogee, Indian Territory, July 29, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rejecting the application of William O. Trott for the enrollment of himself as a citizen by blood, and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage, of the Cherokee Nation.

The decision with a copy of the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Yours truly,

Commissioner in Charge.

Enc. C. No. 56.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D-390.

Muskogee, Indian Territory, September 29, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:-

You are hereby advised that W. P. Thompson, Attorney for William O. Trott et al., has this day been notified that he will be allowed fifteen days from date hereof within which to file with the Commission a brief setting forth his reasons why the applicants should be enrolled as citizens of the Cherokee Nation.

This for your information.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON I. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee D 390.

Muskogee, Indian Territory, November 26, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision rejecting the application of William O. Trott for the enrollment of himself as a citizen by blood, and for the enrollment of his wife, Fannie W. Trott, as a citizen by intermarriage, of the Cherokee Nation, was affirmed by the Secretary of the Interior on October 31, 1902.

Respectfully,

Acting Chairman.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

July 11, 1903.

W. W. Hastings, Esq.,
Muscogee, Ind. Ter.

Dear Sir:

Enclosed please find brief on behalf of applicants in re application of John R. Trott and wife for enrollment as Cherokee citizens; also brief on behalf of applicants in re application of William C. Trott and wife for enrollment as Cherokee citizens. Please acknowledge receipt of the same.

Yours very truly,

White

70

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

FHE

I.T.D. 6624-1902.
5772-1903.
8861- "

LRS

October 1, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Sir:

Referring to your letter of September 21, 1903, transmitting a brief on the part of the Cherokee Nation, "in answer to a brief filed by counsel for the applicants" in the case of William O. Trott et al., in which you object to the motion for review and rehearing filed in this case, you are advised that on July 27, 1903, the case was remanded to the Commission to the Five Civilized Tribes for rehearing.

It appears that the brief filed by you has not been served on the attorney for the applicants, as it should have been, but upon William O. Trott.

Respectfully,

Thos Ryan
Acting Secretary.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH.
SECRETARY

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-390.
(R 776).

Muskogee, Indian Territory, October 10, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 9, 1903, granting the application of William O. Trott for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-79

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee R-776.

Muskogee, Indian Territory, February 29, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated October 9, 1903, granting the application of William O. Trott for the enrollment of himself as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on February 15, 1904.

Respectfully,

Commissioner in Charge.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 796

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 8, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 8, 1907, denying the application for the enrollment of Fannie W. Trott, as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl.H.J.-18.
H.J.C.

Refer in reply to the following: Copy.

DEPARTMENT OF THE INTERIOR,

LAND
2933-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

February 23, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of November 26, 1906, (I.T.D. 7822-1903) there is enclosed the record of proceedings in the matter of the application for the enrollment of Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation, together with the decision of the Commissioner to the Five Civilized Tribes dated January 8, 1907, adverse to the applicant.

The record shows that on September 22, 1900, William O. Trott appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation.

The record further shows that on July 29, 1902, the Commission rendered its decision denying Fannie W. Trott the right to enrollment as a citizen by intermarriage of the Cherokee Nation, which decision was approved by the Department on October 31, 1902 (I.T.D.6624-1902). Thereafter, on July 27, 1903 (I.T.D.5772-1903) the Department rescinded its decision of October 31, 1902, and remanded the case to the Commission to the Five Civilized Tribes for readjudication.

The evidence shows that the applicant herein was married in the year 1890, to William O. Trott, a Cherokee citizen, and that application was made to the Commission to the Five Civilized Tribes, acting under authority of the Act of Congress approved June 10, 1896 (29 Stat. L., 321) for the admission to citizenship in the Cherokee Nation of William O. Trott as a citizen by blood, and Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation, and that the application was granted and no appeal taken therefrom.

In accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the case of Daniel Red Bird et al, vs. the United States, and by reason of the provisions of the Act of Congress approved June 28, 1898 (30 Stat. L., 495), the Office concurs in the decision of Commissioner Bixby denying the enrollment of Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation.

Very respectfully,

(Signed) C. F. Larrabee,

EBM.Ph.

Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

D. C. 12415
I.T.D. 5042,5044,5054,5070,5126-07.
5162,5338,5340,5352,5372- "
5408,5430,5432,5434, - "
LRS.

Y. P.
FHE.

February 28, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Your decisions in the following Cherokee citizenship cases adverse to the applicants are hereby affirmed, viz:

Title of case.	Date of your letter of transmittal.
Emma L. Ironside, (Intermarried)	February 1, 1907
Nancy Raper, (Intermarried)	February 2, 1907
John Swain, (Intermarried)	February 2, 1907
Eva Ellen Anderson (Freedman)	January 12, 1907
William M. Donaldson,	December 3, 1906
Fannie W. Trott, (Intermarried)	January 8, 1907
Louisa J. Sloan, (Intermarried)	February 6, 1907
Dollie Theressa Callaway, et al,	January 25, 1907
Martha Harris, (Intermarried)	February 6, 1907
Sandy Smith, (Freedman)	November 23, 1906
Edward Chaney,	January 28, 1907
Carl E. Fishback,	January 18, 1907
Sarah E. McDonald, (Intermarried)	January 30, 1907
Mary A. Price, (Intermarried)	January 30, 1907

Copies of Indian Office letters submitting your reports and recommending that the decisions be approved, are inclosed. A copy hereof and all the papers in the above-mentioned cases have been sent to the Indian Office.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

AFMc
3-1-07
14 inc. and 28 for Ind. Of.

REFER IN REPLY TO THE FOLLOWING
Cherokee
R-776

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 9, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 8, 1907, rejecting the application for the enrollment of Fannie W. Trott as a citizen by intermarriage of the Cherokee Nation was affirmed by the Secretary of the Interior, February 28, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.H-17
JMH

I THE MATTER OF THE APPLICATION O

William C. Trott et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 22, 1900
B. Mem^o of application. " 22, 1900
D Supplemental testimony 3/26/01.
E. Receipt for testimony.
F. Notice of final consideration 2/26/0
G. Order closing testimony, Feb. 28, 1902

C. Testimony from John K. Trott case, D389.

[illegible]

[illegible]

Cher D 391

Cher D 391

K 391

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
ACTING CHAIRMAN

[illegible]
[illegible], I. T., [illegible], [illegible].

[illegible] C. Case for enroll[illegible], [illegible] as citizen of the Cherokee [illegible], [illegible] Clarence Breckinridge, testi[illegible]

[illegible]? A [illegible].
[illegible] ton? A [illegible].
[illegible] to [illegible].
[illegible] Cherokee.
[illegible]? A [illegible], [illegible] and [illegible].
Q [illegible] Cherokee [illegible] blood? A Yes.
Q [illegible] Cherokee blood [illegible]? A About [illegible].
Q [illegible] Cherokee? A [illegible].
Q [illegible] been living in the Cherokee Nation? A Something over [illegible] except [illegible] I [illegible] school.

The applicant [illegible] official copy of a decision of [illegible] No. 110, Northern District, Indian Territory, [illegible] December [illegible], [illegible], showing that certain persons were admitted to citizenship by the decision of the Court, and [illegible] the name of J. C. Case, and [illegible] the applicant [illegible] "I." The [illegible] Commission, [illegible], [illegible] 441, Commission [illegible], gives the applicant's name as J. C. Case, and states that [illegible], was admitted to citizenship by judgment of the United States Court in the case previously cited by number.
Q [illegible] U. S. Court [illegible]? A Two years ago.
Q [illegible] T. C. Case.
Q [illegible].
Q [illegible] alive? A Alive.
Q [illegible] married now? A [illegible].
Q [illegible]? A Yes.
Q [illegible] living now? A Yes.
Q [illegible].
Q [illegible]? A No.
Q [illegible] married her? A Applicant presents marriage license issued by the Clerk of the U. S. Court, Indian Territory, First Judicial District, October [illegible], [illegible], authorizing his marriage to [illegible] Warren. The certificate shows that they were married in accordance with said license by United States Commissioner, Charles [illegible], on the [illegible] date as the license. These papers are filed herewith.
Q [illegible] lived with [illegible] since you were married to her in [illegible]? A Yes.
Q [illegible] children? A Corbet, [illegible] years old.
Q [illegible]? A [illegible], [illegible] years old.

By J. [illegible], Cherokee Attorney:
Q You say you were married [illegible] of October, [illegible]? A Yes.
Q Your wife is not included in this judgment is she? A She was supposed to be; we have been married long enough.
Q She is not mentioned in the paper you showed me? A I believe her name was overlooked in that.
Q These children are both living now? A Yes.

The name of the child, Corbet [illegible], appears upon the record of th Dawes Commission as among those admitted by the U.S. Court.

The applicant applies for the enrollment of himself, wife and two children. He is shown by the official record cited in the testimony to have been admitted to citizenship by the U. S. Court, and he has lived in the Cherokee Nation 21 years; he will be listed now for enrollment as a Cherokee by blood. His marriage is established by the license and certificate filed herewith, and shown to have taken place October 5, 1892. He and his wife have lived together ever since they were married. Their child, Corbet Cass, is included in the official record cited above and this child will be listed now for enrollment as a Cherokee citizen by blood. When proper certificate of birth is presented of the child, Mary E. Cass, and infant, this child will also be listed for enrollment as a Cherokee by blood.

As for his wife, she is not mentioned in the official records cited in this case, and the applicant states that her name was not in the proceedings before the Court, but for the further consideration of xxx x her rights, his wife having been married to him in '92 and continuing without interruption as his wife to the present time, the application for her enrollment will be placed upon a doubtful card, and the final decision of the Commission will be communicated to the applicant at his postoffice address.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonnell

Subscribed and sworn to before me this 24th day of September, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 9th, 1902.

In the matter of the application of Ella N. Cass for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-391.

ELLA N. CASS, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. Ella N. Cass.
Q. How old are you? A. 28.
Q. What is your post office? A. Vinita.
Q. You are a white woman? A. Yes, sir.
Q. Were you admitted to citizenship by the United States Court?
A. Yes, sir.
Q. As a citizen by intermarriage? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. Pretty near all my life. We came up to Vinita when I was 6 years old.
Q. You have never lived out of the nation since then?
A. No, sir.
Q. What is your husband's name? A. Grant Cass.
Q. When were you married to him? A. '92, October 5th.
Q. Was your husband admitted by the United States Court?
A. Yes, sir.
Q. How long has he lived in the Cherokee Nation? A. About all his life.
Q. You have been living with him ever since your marriage?
A. Yes, sir.
Q. How many children have you? A. Three.
Q. All been enrolled? A. Yes, sir.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O Carr

Subscribed and sworn to before me this 12th day of December, 1902.

B C Jones
Notary Public.

Cherokee D. 391

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Ella N. Cass, for enrollment as a Cherokee citizen.

On the 22nd day of September 1900, Idde G. Cass appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself and his two children as citizens by blood of the Cherokee Nation, and for his wife, Ella N. Cass, as a citizen by intermarriage of the Cherokee Nation.

At the conclusion of the evidence offered at that time Idde G. Cass and his two children were listed for enrollment on a regular card, and the name of his wife, Ella N. Cass, was placed upon a "Doubtful" card pending further consideration of her rights as a citizen of the Cherokee Nation.

Upon further consideration of her case the following decision is rendered.

DECISION.

--oOo--

It appears from the evidence that the husband of Ella N. Cass under the name of J. G. Cass was admitted to citizenship in the Cherokee Nation by the judgment of the United States Court in the Indian Territory for the Northern District on appeal from a decision of the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896. They had been previously married by authority of a marriage license issued by the Clerk of the United Court in the Indian Territory on the 5th day of October, 1892, the marriage certificate thereto attached showing that they were married on the same day. Ella N. Cass has lived with her husband in the Cherokee Nation since the date of said marriage. She is not identified upon any roll of the Cherokee Nation.

This Commission is directed in paragraph 1, section 21, of the Act of Congress approved June 28, 1898 (30 Stats.,496) to enroll, "such intermarried white persons as may be entitled to citizenship under Cherokee laws."

This Commission in deciding this case refers to the following decisions of the Supreme Court of the Cherokee Nation:

In 1871 the Supreme Court of the Cherokee Nation sitting as a Court to hear and determine cases of persons of doubtful citizenship decided the case of The Cherokee Nation vs. Nancy Rogers in the following language:

1. "That common custom of the Cherokees since their first intercourse with white men made common law upon which most of our statute laws have been founded. White women have been taken as wives by Cherokees from time immemorial and their rights as Cherokees has (have) never been disputed apart from that of her husband."

2. "In all treaties with the United States white women intermarried with Cherokee men have ever been classed as a part of our people."

3. "As the Cherokee man is the acknowledged head of the family and white women as wives become subject to him as such, and as no special law regulating the status of white women has been made nor does the Court think it necessary; therefore decide that Nancy Rogers and all other white women married to Cherokee men or the widows of such and who have not forfeited their rights under any other law, are entitled to such rights and privileges as white men who have been married under the law regulating intermarriage between white men, citizens of the United States, and Cherokee women."

Fifteen years later, on November 12, 1886, the Supreme Court of the Cherokee Nation in the case of Melissa Dawson vs. W. A.

Dawson cited the Nancy Rogers case with approval, and held that the doctrine laid down in that case was the law governing the status of white intermarried women. Melissa Dawson was a white woman, married to her husband, W. A. Dawson, in Texas in 1873. Her husband was admitted to citizenship in the Cherokee Nation on September 14, 1883. The case here cited was a suit brought by her against her said husband for divorce, and in the course of the trial of that case a motion was made to dismiss on the ground that the plaintiff was a white woman and not entitled to sue, not being a citizen of the Cherokee Nation. The Court overruled the motion, holding that it saw no reason to depart from the doctrine in the Rogers case.

Under the facts in this case and upon the principle laid down in the decisions of the Supreme Court and the law cited it appears that Ella E. Cass, being the wife of a Cherokee citizen, duly married to him in 1892, prior to his admission to citizenship, has, by the fact of such marriage been admitted to citizenship in the Cherokee Nation. The fact that she is not identified on the roll of 1896 is not considered material as her status is fixed by intermarriage and not by enrollment on the Cherokee tribal rolls. She has not forfeited her rights acquired by virtue of such marriage and is therefore entitled to be enrolled as a citizen of the Cherokee Nation, and it is so ordered.

C. R. Breckinridge

Commissioners.

Dated at Muskogee, Indian Territory,
AUG 11 1902

DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes,
Muskogee, I. T. August 26th 1902.

In the matter of the application of Ella Cass for enrollment as a citizen of the Cherokee Nation by Intermarriage.. C. D. 391.

The Cherokee Nation respectfully protests against the decision of the Commission rendered in this case on August 11th 1902 and requests that th same be forwarded to the Honorable Secretary of the Interior for Review.

Ella N. Cass is the wife of J. G. Cass who was admitted to citizenship December 18th 1899 by the United States Court for the Northern District of the Indian Territory upon appeal from the Dawes Commission.

It will be noted that the name of the applicant herself was not included in the application made by her husband and that he was not a recognized citizen of the Cherokee Nation himself until after that date and the Cherokee Nation contends that if her husband was not a recognized citizen before December 16th 1895 when the Cherokee Nation passed an act specifying that no white person shall be entitled to citizenship in the Cherokee Nation who intermarried with a Cherokee citizen after the 16th day of December 1895 and referred to in section 26, of the Cherokee Agreement (Public Document No 241.)

Our contention is that the husband of the applicant must have been a recognized citizen of the Cherokee Nation prior to December 16th 1895 and she must have been his recognized wife because suppose the applicant had married J. C. Cass on the day he was admitted December 18, 1899 and that was the earliest time he was a recognized citizen of the Cherokee Nation, she under the law would not have been entitled to enrollment in the Cherokee Nation. We contend that the Rogers case does not apply to this case and neither does the Dawson case apply because both of these cases refer to xxxxxxxx times when the marriage of the white woman to a Cherokee citizen entitled her to citizenship in the Cherokee nation. Certainly a white woman marrying a Cherokee man can have no more rights than a whiteman marrying a Cherokee woman and neither could have acquired any rights if they married after December 16th 1895; in other words we contend that the distinction between this case and the cases cited by the Commission is, that in those cited by the Commission both were recognized citizens of the Cherokee Nation by blood long before December 16th 1895 whereas in the present case the applicant was not the recognized wife of a recognized citizen until after December 12,1899 or four years after the passage of the act of December 16, 1895 and therefore too late to acquire citizenship in the Cherokee Nation by intermarriage.

Respectfully submitted,

W W Hastings

J. C. S. Attorney for the Cherokee nation.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 391.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application for the enrollment of Ella N. Cass as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 52.

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COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH.
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-391.

Muskogee, Indian Territory, December 16, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated August 11, 1902, granting the application of Iddo G. Cass for the enrollment of his wife, Ella N. Cass, as a citizen by intermarriage of the Cherokee Nation, a copy of which decision was furnished you on August 12, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

D.C.53248-1906. (COPY) Y.P.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D.1214-1903. December 1, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of the decision of the supreme Court of the United States in the case of Daniel Red Bird et al., citizens of the Cherokee Nation by blood, and Francis B. Fite et al., claiming to be entitled to citizenship in the Cherokee Nation, the decision of the Department of February 14, 1903, approving the decision of the Commission to the Five Civilized Tribes in favor of Ella N. Case, applicant for enrollment as a citizen by intermarriage of the Cherokee Nation, is rescinded and the application is rejected.

Ella N. Case was married to her Cherokee husband in 1892. He was subsequently recognized as a citizen of the Cherokee Nation by the United States court in the Indian Territory, under the provisions of the act of June 10, 1896 (29 Stat., 321),

You will report to the Department where upon the partial roll of the Cherokee Nation the name of this applicant may be found, if she has been enrolled in accordance with the decision of the Department. You will also inform the Department relative to the status of any land that may have been allotted to her.

Respectfully,

Through the Commissioner
of Indian Affairs.

Thos. Ryan.
First Assistant Secretary.

REFER IN REPLY TO THE FOLLOWING
Cherokee
10159

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 17, 1906

W. W. Hastings,
Attorney for Cherokee Nation ,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated February 14, 1903, granting the application for the enrollment of Ella N. Cass as a citizen by intermarriage of the Cherokee Nation, was reversed by the Secretary of the Interior on December 1, 1906.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Commissioner

Encl. B-79

Ella W. Bass

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

a. Original testimony September 22, 1900
b. Memo of application " 22, 1900
c. Receipt for testimony Wm P. Thompson

[illegible] d,
to [illegible]
Cancelled

See Jacket No 376

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED
SEP 22 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 28, 1900.

In the matter of the application of Minora Cave for the enrollment of herself and children as Cherokees by blood and her husband as a Cherokee by intermarriage; being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q What is your full name? A Minora Cave.
Q How old are you? A 27.
Q What is your post office? A Lenapah.
Q For whom do you apply? A Myself, husband and six children.
Q In what district do you live? A Cooweescoowee.
Q Are you a Cherokee by blood? A Yes, sir.
Q Is your husband a Cherokee by blood? A He is by adoption.
Q What proportion of Cherokee blood do you claim? A My father and mother claim about 1/16, that is what I am I suppose.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What was your father's name? A James Tittles.
Q Cherokee or white man? A Cherokee.
Q He living? A Yes, sir.
Q Your mother's name? A Annie.
Q Cherokee? A Yes, sir.
Q She living? A No, sir.
Q How long has she been dead? A 7 years.
Q Is your husband the only husband you have ever been married to?
A Yes, sir.
Q When were you married? A (Exhibits paper.)
(Applicant presents a certificate signed by the Clerk of Delaware district, stating that he, on the date of said certificate, October 5, 1895, united William T. Cave, a citizen of the United States, and Menora Tittle, a citizen of the Cherokee Nation, agreeable to the laws and customs of the Cherokee Nation, but he does not state that any license has been issued. This paper is filed herewith. The applicant also presents a marriage certificate showing that on October 11, 1887, William Cave and Nora Tittle were united in marriage at Muskogee, I.T., by the Rev. J. O. Shanks. This is filed herewith.)
Q You and your husband have been married under two forms, this one and the one you call your Cherokee license? A Yes, sir.
Q Has your husband lived with you ever since his marriage in 1887?
A Yes, sir.
Q He has lived with you continuously in the Cherokee Nation, has he?
A Yes, sir.
Q Give me, please, the names of your children? A James Leroy, 11 years old.
Q The next child? A Annie, 10 years old.
Q The next child? A Ona, 7 years old.
Q The next? A William C., 5 years old.
Q The next child? A Katie Mabel, 3 years old.
Q The next child? A Earl, 5 months old.
Q These children are all living now are they? A Yes, sir.
(Minora Cave on 1880 roll, page [illegible], No. 3870, Manora Tittle, Cooweescoowee district. On 1896 roll, page 137, No. 1137, Menora Cave, Cooweescoowee district. William T. Cave on 1896 roll, page [illegible], No. 855, Cooweescoowee district. James Leroy Cave on 1896 roll, page 137, No. 1138, James Cave, Cooweescoowee district. Annie Cave on 1896 roll, page 137, No. 1139, Cooweescoowee district. Ona Cave on 1896 roll, page 137, No. 1140, Cooweescoowee district. William C. Cave on 1896 roll, page 137, No. 1141, Willie Cave, Cooweescoowee district.)
Q Why haven't you got a regular license for the Cherokee marriage between you and your husband, didn't you get one? A No, sir, I ~~didn't~~ Don't know.
Q You couldn't have married in accordance with Cherokee law without getting a license, and you have only got a certificate. Did the

Minora Cave

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Clerk issue you a license or did you just simply have that certificate? A That is all we had; we went there and was married.

The applicant applies for the enrollment of herself, her husband and six children. She is identified on the rolls of 1880 and 1896 as a native Cherokee. She has lived in the Cherokee Nation all her life, and she will be listed now for enrollment as a Cherokee by blood. Of her six children enumerated in the testimony, the first four are identified with her on the roll of 1896, they are living at this time, and will be listed now for enrollment as Cherokees by blood. When she supplies proper certificates of birth of the two youngest children, Katie M. and Earl Cave, they also will be listed for enrollment as Cherokees by blood.

In regard to the application for her husband, his marriage to her under United States law is shown by the marriage certificate filed herewith to have taken place in 1887, and the applicant also files a Cherokee certificate of marriage, dated October 5, 1888, but she does not supply the license which should accompany that certificate. At present, therefore, the application for the enrollment of her husband will be placed upon a doubtful card, with the injunction that they supply the Commission with the original or an official copy of the license which should accompany the certificate. The husband is shown to have lived with his wife ever since their first marriage in 1887, and he is identified with her on the roll of 1896. Attention is called to Article 15, Section 659 et seq. of the compiled laws of the Cherokee Nation, edition of 1892.

* * *

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 22nd of September, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
NOV 8 1901
ACTING CHAIRMAN.

Cherokee D-392.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 24, 1901.

In the matter of the application of William T. Cave for enrollment as a Cherokee citizen.

Supplemental testimony on behalf of the applicant.

Appearances:
Applicant present in person;
J. L. Baugh, Cherokee Representative.

John E. Duncan, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John E. Duncan.
Q How old are you? A I am 40 years old.
Q What is your postoffice? A Rose.
Q Are you a Cherokee citizen? A Yes, sir.
Q Do you know William Cave? A Yes, sir.
Q Do you know his wife, Minora? A Yes, sir.
Q Well, do you know they were married according to the laws of the Cherokee Nation or not? A Well, I think they were.
Q How do you know it? A I was Clerk of the district at the time and married them.
Q What district? A Delaware.
Q Did you issue the marriage license to him? A That I can't tell you.
Q You don't know whether he had a marriage license or not? A I recollect marrying him and I suppose to the best of my knowledge now they were issued, I was Clerk and I wouldn't have married them unless I had issued the license, and it has been so long I have forgot, I can't swear to something I can't remember.
Q Have you any record of the licenses you issued? A No, sir, not now, they ought to have been in the district clerk's office.
Q So all you know about it is that you married them and that you suppose you married them according to the laws of the Cherokee Nation? A Yes, sir.
Q You wouldn't have married him without he had a license?
A No, sir.
Q Well, was it your business to issue the license? A Yes, sir.
Q You don't have any recollection as to whether you did issue the license or not? A No, sir.
Q That is all you know about it? A Yes, sir.

MINORA CAVE, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Minora Cave.
Q How old are you? A I am 28 years old.
Q What is your postoffice? A Vinita.
Q Do you know William T. Cave? A Yes, sir.
Q What relation is he to you? A He is my husband.
Q You are his wife, Minira T.? A Yes, sir.
Q Well, do you know anything about the issuing of the marriage license to your husband when he married you? A Well my understanding was John Duncan didn't have the blanks there and he was to send them to us, but he never did.
Q You never saw the license? A Never saw the license, but he got the money all the same.
Q John Dunce? A Yes.
Q That the witness that has just been here on the stand? A Yes, sir.
Q How much was it he paid him? A Ten dollars I think.
Mr. Baugh: Mrs. Cave, do you remember the time that you made application before the Dawes Commission at this place, September 22, 1900?

A Yes, sir.

Q Do you remember having a conversation with me afterwards, after you made the application, before you finished up your filing? A I don't know, I might have had a few words with you.

Q Do you remember telling meat that time that your father and Bill, as you called him, went to Mr. Duncan and got out the license?

A No, sir, I don't think I did.

Q And that you stated, furthermore, that you paid him $10 for the license, or $12.50, that was it, and that I made a statement that I guessed the $10 was for the license and the $2.50 for the marriage?

A No, sir, I didn't have no such talk as that.

Q You didn't tell me that? A No, sir.

Q You don't remember having any talk with me at all? A No, sir, I know they asked a few questions, but the Commissioner wouldn't let me say nothing.

Q This was after you left the Commission and went back in the town?

A No, sir, I don't think I had a word to say to you, nobody came to talk to me at all, no, sir; Emmett Starr.

Q Was he the only one? A That is all I remember, I don't think I ever spoke to you after that at all.

ANNIE SHEEHAN, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Annie Sheehan.

Q How old are you? A 30 years old.

Q What is your postoffice? A Vinita.

Q Do you know William T. Cave? A Yes, sir.

Q Know his wife, Minora? A Yes, sir, she is my sister.

Q Do you know whether there was ever a marriage license issued to them before they were married? A No, sir, I don't, I was up there when they married, and that is all I know.

Q You were present at their marriage? A Yes, sir.

Q Who married them? A Mr. Duncan.

Mr. Baugh: Where was that marriage ceremony performed at? A Down here in that McClelland building, the old Rock House.

Q Was that the Clerk's office? A Yes, sir.

Q When was that marriage performed? A In '95.

Q What time in '95? A The 5th of October.

William T. Cave, the applicant, examined by Commissioner Needles, testified as follows:

Q What is your name? A W. T. Cave.

Q You are the applicant? A Yes, sir.

Q Did you file a petition with the Clerk when he was supposed to have granted you the marriage license? A My father in law, J. M. Tittle, got the petition up and had the signers to sign it and presented it to Mr. Duncan, I lived a way from him a little piece and he had everything ready and sent for me and I came down there and went up there with the petition and everything as complete as I know how and paid him the money, and that is all I know, all I can tell you.

Q Did you see the petition? A Yes, sir, Jim Tittle is here in town, I can have him here before you if you will let somebody call him, he was the one that got the petition up and saw the marriage too, paid the money, saw me pay it.

Mr. Baugh: Where was you first married at? A Married the first time at Muskogee.

Q Where did you live after that? A I lived in Vinita, well I have been here about 14 years.

Q Did you never live anywhere else except Vinita? A Lived at Lenapah four or five years.

Q Never lived anywhere else? A Not since I came here.

Q You never live in Denison, Texas? A No, sir.

Q You and your wife never went down there? A We went to Fort Worth on our tour and stayed three or four weeks and came back.

Q I will ask you did you conform to the Cherokee laws when you asked for the license? A Yes, sir.

Q Did you get a certificate from the County clerk of the last place where you voted and present that also with your signers, your certificate signed by ten persons of blood of the Cherokee Nation? A I took a petition signed by twelve, and presented to the Clerk, and he issued the license.

Q Did you get that certificate of good moral character from the County Clerk of the last place where you were a voter? A Yes, sir, all I got was from Duncan, I lived here in Vinita all the time, I never had voted here then.

Q Did you get any from any County Clerk outside of the Indian Territorh? A No, sir; what do you mean by that clerk business; I don't understand that?

Q I simply asked you if you complied with the laws of the Cherokee Nation in getting that certificate of marriage, that marriage license? A I got a recommendation from the clerk of Dubois County, Indiana, where I was raised, I got a recommendation from that clerk.

Q What did you do with that? A It is somewhere, lying around, I don't know whereabouts, but I can produce witnesses that saw it.

Q Did you turn it over to the Clerk of the Cherokee Nation? A No, I don't think I gave that to him, he didn't require it, didn't require nothing but the twelve signers, that is all he required, I gave him all he required, and paid him his money, is all I could se.

Commissioner: This will be filed with the papers in the case.

J. M. TITTLE, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A J. M. Tittle.

Q What is your age, Mr. Tittle? A 55.

Q Well, do you know William T. Cave? A Yes, sir.

Q You know his wife, Minora? A Yes, sir.

Q Well, what do you know about their being married according to the laws of the Cherokee Nation? A Well we were married according to the laws of the Cherokee Nation, I got up the petition for them and presented to the clerk down here, John Duncan, and he issued the license and married them.

Q You ever see the license? A No, he issued the license; I don't remember; I might have saw it at the time, he was down here at this rock building down here in town and we went down there, and I had the petition by the time they get here and they went down here and was married here.

Mr. Baugh: Mr. Tittle, do you know whether a license was issued in strict compliance with the laws of the Cherokee Nation? A I don't know any further than that I just went around and got the petition and took down there and to John and had the license issued for them.

Q Do you know whether or not William Cave had obtained from the County Clerk of the last place where he was a voter a certificate of good moral character which the laws required to be done? A I don't remember whether he did that or not.

Q Did you present such a certificate? A To the Clerk, I did not that I remember of, I just got the signers.

Q You don't remember whether such a certificate as that was presented to the clerk at the time? A I don't know, I don't remember at the time.

Q The law required such as that, did it not? A Yes, sir.

Q Did you get the license for Mr. Cave? A I got the petition.

Q You didn't get the license? A No, I just got the petition and presented to John Duncan.

****

Bruce J. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the proceedings and testimony in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

[illegible]

Sworn to and subscribed before me this the 29th of October, 1901.

Commissioner.

FILED
MAR 14 1902

ACTING CHAIRMAN

"R"

D 392

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of William T. Cave, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 10, 1902, that his application to be enrolled as a citizen of the Cherokee Nation would be taken up for final consideration xx by the Commission on the 26th day of February, 1902, and that on said date he could appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any further testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

The applicant has this day, to-wit: the 26th day of February, 1902, been called three times, and failing to respond either in person or by attorney, the case is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee-D-392.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Minora Cave for the enrollment of her husband, William T. Cave, as a citizen by intermarriage of the Cherokee nation.

DECISION.

The record in this case shows that on September 22, 1900, the applicant, Minora Cave, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her six minor children James L., Annie, Ona, William C., Katie M., and Earl Cave as citizens by blood of the Cherokee Nation and for the enrollment of her husband, William T. Cave, as a citizen by intermarriage of the Cherokee Nation. Minora Cave and her six minor children James L., Annie, Ona, William C., Katie M. and Earl Cave have been listed for enrollment on Cherokee Card Field No. 3282. Further testimony was submitted in this case October 24, 1901 at Vinita, Indian Territory. It appears from the evidence in support of this application that Minora Cave is identified on the 1880 authenticated tribal roll of the Cherokee Nation, page 185, No. 2870 and on the 1896 Census Roll of the Cherokee Nation, page 137, No.1137. The applicant, William T. Cave, is identified on the 1896 Census Roll of the Cherokee Nation, page 300, No. 258. It further appears from the evidence in support of this application that the applicant, William T. Cave, was married to Minora Tittle a citizen of the Cherokee nation in accordance with the laws and customs of the Cherokee nation on the fifth day of October, 1895.

The authority of the Commission herein is defined in Par.1,

Cherokee-D-392.

Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that William T. Cave is lawfully entitled to be enrolled as a citizen by intermarriage of the Cherokee Tribe of Indians in Indian Territory and that the application for his enrollment should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian, Territory.
this MAY 20 1902

COMMISSIONERS:
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

D-392.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Minora Cave for the enrollment of her husband, William T. Cave, as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

~~Commissioner~~ in Charge.

Encl. D-392.

IN THE MATTER OF THE APPLICATION OF

William J. Keara

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. ~~Original testimony~~ September 22, 1900
B. Memo of application " 22, 1900
C. Marriage Certificate
D. " "
E Supplementary testimony Oct. 24 1901.
F Notice of final consideration 7/24/02
G

Receipt for testimony

Order closing testimony 7/26/02

Sept 11, 1907 Cancelled and transferred to [illegible]

See Cherokee [illegible] 3282

Cher D 393

Cher D 393

D393

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 22nd, 1900.

IN THE MATTER OF THE APPLICATION OF Annie Harvey for enrollment as a citizen of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q Give me your name please? A Annie Harvey.
Q How old are you? A About fifty eight.
Q What is your Postoffice? A Vinita.
Q What is your District? A Cooweescoowee.
Q Who is it you want to have put on the rolls? A Myself.
Q Are you a full blood Shawnee? A Yes sir.
Q Did you come here with the Shawnees in 1870? A Yes sir.
Q What is the name of your father? A John Prophet.
Q Dead or living? A Dead.
Q How long since? A He died in Kansas.
Q What is your mother's name? A Nancy Prophet.
Q Dead or living? A Dead.
Q How long since? A About twenty nine years.
Q When did you marry Harvey? A Twenty four years ago.
Q Is he dead? A He is living.
Q What is your husband's given name? A Robert Harvey.
(1896 Roll, Page 544, #211, Annie Harvey, Cooweescoowee Dist.)

Annie Harvey is a full blood Shawnee: She states that she came with the Shawnees to the Cherokee Nation in 1870, and has lived here ever since: She can not be identified on the roll of 1880, but is identified on the roll of 1896: With a view of more thoroughly considering her status, she will at this time be placed upon a Doubtful Card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me this 24th day of September, 1900.

T B Needles

COMMISSIONER.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 9 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 25th, 1900.

SUPPLEMENTAL PROCEEDINGS IN THE MATTER OF THE APPLICATION OF ANNIE HARVEY FOR THE ENROLLMENT OF HERSELF AS A CHEROKEE CITIZEN.

COMMISSIONER T. B. NEEDLES: This applicant, Annie Harvey, made application for enrollment on the 22nd of September, 1900, before this Commission at Vinita, Indian Territory, and could not then be identified on the roll of 1880, but since that time she is identified on the roll of 1880 as Anna Haney, her enrollment being, 1880 roll, page 117, No. 1419, Anna Haney, Cooweescoowee District.

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The undersigned, beingsworn, states, that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the supplemental proceedings in the above matter, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 9th day of October A. D. 1900.

Commissioner.

Cherokee-D-393

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Annie Harvey for the enrollment of herself as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, the applicant, Annie Harvey, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen by blood of the Cherokee Nation. The applicant, Annie Harvey, is identified on the 1880 authenticated tribal roll of the Cherokee Nation, page 117, No. 1419, and on the 1896 census roll of the Cherokee Nation, page 344, No. 211.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Annie Harvey is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for her enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

COMMISSIONER.

C. R. Breckinridge

COMMISSIONER.

Muskogee, Indian Territory,

this MAY 20 1902

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:

D. 393.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Annie Harvey for the enrollment of herself as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. C-393.

THE MATTER OF THE APPLICATION O

Annie Harvey

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 22, 1900
B. Mem° of application. " 22, 1900
C. Additional testimony. " 25, 1900

Sept [illegible] 1902 Cancelled ~~[illegible]~~
and transferred to [illegible] No 9571

[illegible] - E

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W394

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 24 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., SEPTEMBER 22nd, 1900.

IN THE MATTER OF THE APPLICATION OF Charly Blaylock for enrollment as a citizen of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Charly Blaylock.
Q How old are you? A About twenty two. (22)
Q What is your Postoffice? A Seneca.
Q What district do you live in? A Quapaw Reservation.
Q Whom do you want to put on the roll; yourself? A Yes sir.
Q Is that all? A Yes sir.
Q What are you? A Cherokee.
Q Full blood? A Half breed.
Q What is the business? A Farmer.
Q How long have you lived in the Cherokee Nation ~~xxxxxxxxxx~~ At all? A Been away two years now.
Q And the balance of the time, did you live in the Cherokee Nation? A Yes sir.
Q Where have you been for the two years; in the Quapaw Reservation? A Peoria Reservation.
Q What is your father's name? A Henry Blaylock.
Q Dead or living? A Dead.
Q How long since? A About four years.
Q Give me your mother's name? A Laura Locke.
Q Is she dead or living? A Living.
Q What district were you living in in 1880? A I do not know.
(1880 Roll, Page 220, #114, Charly Blaylock, Delaware District)
(1896 Roll, Page 182, #704, Charlie Blaylock, Cooweescoowee Dist
Q What are you doing in the Quapaw Reservation; what are you doing there? A Living with my family.
Q Do you propose to stay there all the time? A No sir.
Q Do you call that your home; or do you call this your home here? A I aim to move back into the Cherokee Nation.

By [illegible], Cherokee Representative:
Q Is your wife a Peoria? A Yes sir.
Q Has she drawn land up there? A Yes sir.
Q Did you draw any? A No sir.

By the Commission:
Q You just apply for yourself, do you? A Yes sir.
The applicant is identified on the rolls of 1880, and 1896, as a Native Cherokee; He states that he has lived in the Cherokee Nation all his life, except the last two years, he has been in the Quapaw Reservation. In view of the possible doubt, on the score of residence, his name will be placed on a Doubtful Card, and the final decision of the Commission will be communicated to him at his Post office address.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me this 22nd day of September, 1900.

COMMISSIONER.

Cher D3001

FILED
JUN 18 19

SUPPLEMENTAL TESTIMONY.

Cher. D.-#394.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I. T., JUNE 3d, 1901.

In the matter of the application of Charley Blalock for the enrollment of his child, ROSA, as a citizen of the Cherokee Nation of shawnee blood; said Blalock being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Charley Blalock.
Q How old are you? A About 26 now, somewhere along there, I don't know just exactly how old I am.
Q What is your post office? A Seneca is my post office.
Q What district do you live in? A Peoria now, that is where I am staying.
Q Are you a full blood Shawnee? A Yes, sir, don't claim Shawnee.
Q What are you? A Cherokee.
Q Are you full blood? A No.
Q What degree have you got? A Shawnee.
Q How much have you got? A About half.
Q Who do you want to enroll besides yourself? A I would like to have my baby enrolled.
Q Are you married? A Yes, sir.
Q Is your wife an Indian? A Yes, sir.
Q Do you want to enroll her? A No, she has got land over yonger.
Q Over where? A Over in Peoria.
BY MR. W. W. HASTINGS, Cherokee Representative: Have you got a brother named Gano? A Yes sir.
BY COM'R NEEDLES: How old is your child? A Three years old in November.

(The records of this Commission show that the applicant himself has been enrolled on Doubtful card #394.)

Q What is the name of your child? A Rosa.
Q Why didn't you apply for it when you applied for yourself?
A I didn't have anything to pay to get the paper.
Have you got a certificate now? A No, sir.
Q You are in no better fix now that you were before, are you?
A No.
Q Whereis your wife? A She is out here.
Q She is here is she? A Yes, sir.
Q What is your wife's name now? A Alice Blalock.
Q Is she a citizen of the Cherokee Nation? A Well, she is Shawnee, but she is adopted in Peoria.
Q Has she an allotment up there? A Yes, sir.
Q When were you married to her? A Well that has been about five years, but never got married until here a little over three years ago.
Q Have you got any certificate of marriage? A Yes, sir.
Q Where is it? A At home.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and applicant's name found thereon, page 22, #113, Charley Blalock, Delaware District.

Q Is this child living now A Yes, sir.

COM'R NEEDLES:--Charles Blalock applies for the enrollment of his child, Rosa. He avers that his wife, Alice, is a Peoria Indian and has an allotment in the Peoria Nation. He also avers that he was married about three years ago and as a result of said marriage, the birth of the child Rosa. He is fully identified upon the authenticated roll of 1880 according to the page and number of the roll as indicated in the testimony, but makes no satisfactory proof of the birth of the child and no satisfactory proof as to his marriage, which it will be necessary for him to file when this application before the [illegible] of the child is [illegible]. Because of the fact that his wife is not a Cherokee by blood, who is a Peoria, said Rosa [illegible] will be listed for enrollment as a Cherokee citizen upon a doubtful card, awaiting further proof of the Commission as to her rights as a citizen, and it will be necessary for him to file with the Commission proof of birth and proof of marriage.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J.O.Rosson

Subscribed and sworn to before me this 18th day of June, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Charles Hilock, for the enrollment of himself and his daughter Rose Hilock, as citizens of the Cherokee Nation.

The applicant was notified by registered letter on February 1[illegible], 1902, that his application for the enrollment of himself and child as citizens of the Cherokee Nation would be taken up for final consideration by the Commission on the 26th day of February, 1902, and that he could on said date appear before the Commission either in person or by attorney, and an opportunity would be given him to introduce any further testimony affecting his application.

He was also requested to supply the Commission with a certified copy of the marriage license of himself and wife Alice Hilock, also a duly executed affidavit of the birth of his daughter Rose Hilock.

Applicant having this day, it being the 26th day of February, 1902, been called three times, and failed to respond, either in person or by attorney, his case is closed, and the same will be submitted to the Commission for final decision based upon the evidence now of record.

MAR 14

Commissioner.

"R"
D 394

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Charles Blalock, for the enrollment of himself and his daughter Rosa Blalock, as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 10, 1902, that the application for the enrollment of himself and child as citizens of the Cherokee Nation would be taken up for final consideration by the Commission on the 26th day of February, 1902, and that he could on said date appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any further testimony affecting his application.

He was also requested to supply the Commission with a certified copy of the marriage license of himself and wife Alice Blalock; also a duly executed affidavit as to the birth of his daughter Rosa Blalock.

Applicant having this day, to-wit: the 26th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that the case be closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

IN THE DEPARTMENT OF THE INTERIOR.

In re Application of Stonewall)
J. Rogers, et al., for Enroll- :
ment as citizens of the Chero-)
kee Nation. :

----oOo----

Brief on Behalf of Applicants.

The record shows that Stonewall J. Rogers was readmitted to citizenship by the Cherokee National Council on the 14th day of October, 1887, but did not remove to the Cherokee Nation until January, 1896. In 1896 he applied to the Dawes Commission for enrollment but was refused, no reason being given therefor. It is evident from the record that the refusal was at that time not based upon the grounds of the present rejection. Nearly eight years after his readmission the Cherokee law was passed limiting the time within which persons readmitted should remove to the Cherokee Nation; the effect of all of which is that Rogers should have removed to the Cherokee Nation on or before June 4, 1895.

We would consider at this point the status of Rogers between October 14, 1887, and December 4, 1894. There was nothing in the Cherokee law nor in the act readmitting him which required his removal to the Cherokee Nation -- in other words, on the 14th day of October, 1887, Rogers became a bona fide citizen of the Cherokee Nation. This status continued without interruption until the passage of the act of December 4, 1894. Certainly in this interim he was a bona fide citizen entitled to all of the rights and privileges, by reason of which, under the law, his minor children then living were also entitled to citizenship. We take this to be incontrovertible.

We find from the record that Fannie L. Rogers and Robert K. Rogers were born during this interim and by the fact of their being the children of said Stonewall J. Rogers at this time became citizens of the Cherokee Nation wherever they may have been living and we, therefore, inquire how these children have lost their rights.

If we consider that the Act of December 4, 1894, limited the time within which Stonewall J. Rogers must have removed to the Cherokee Nation, it by its terms "provided that nothing in this act shall bar minors and orphans" and Fannie L. and Robert K. Rogers are not affected by that act. The intent of the National Council was evidently to protect minors just such as these. If it had intended only to affect children without parents to bring them to the Nation it would have used the expression "orphans" only, but evidently the Council contemplated that some parents might not look to the interests of their children as they should, so we have the expression "minors and orphans". The construction given the act by the Commission is in express violation of its terms. "Nothing in this act shall bar minors and orphans" means exactly what it says and is not to be construed so as to bar these minors. Suppose this act had not been passed, would not Fannie L. and Robert K. Rogers have been enrolled? Certainly they would Then, has not the Commission so construed this act as to make it bar these minors? Certainly they have. It should need no argument to establish the contention that no construction of an act is to be adopted which will do the very thing which the act says in plain terms shall not be done, and yet we have that very condition in this case.

We next come to the question as to the effect upon these applicants of their rejection by the Dawes Commission in 1896. The Commission seems to think that that action was final. The act under which they were proceeding does not make their action final, on the contrary, it was only when the case was appealed to the court that final action was had and then by the court and not by the Commission. In other words, if an appeal was taken from the decision of the Commission the court took jurisdiction of the matter and the decision of the court was binding upon the Commission. If there was no appeal taken the Commission never lost jurisdiction of the case. It is true that the time has expired within which parties may apply for enrollment under the Act of June 10, 1896, and so it is under the Act of June 28, 1898. Has not the Commission the right to set aside its finding under the Act of June 28, 1898? It has been directed to do so by the Secretary in numerous cases. Has not the Commission the right to set aside its own findings under the Act of June 10, 1896, if no appeal was taken to the court? Certainly it has, for there is no law prohibiting it. Any court or judicial tribunal may set aside its own findings at any time except there be some law expressly prohibiting it, and we would like very much to see the authority or semblance of authority under which the Commission assumes to refuse to set aside its own decision where that decision is clearly error as we have above shown. If an appeal had been taken to the District court then the statute makes the decision of that court final and, therefore, binding upon the Commission. In other words, takes the case out of the hands of the Commission. The Commission loses jurisdiction of the case for the purpose of trial and determination of the rights of the parties, just as a casetaken on appeal to an appellate court passes out of the jurisdiction of the lower court, but it is universal law that until that appeal has been perfected the lower court retains the jurisdiction of the cause.

Nor is the Commission consistent in its rulings in these matters. Time and time again they have rejected for enrollment applicants who were enrolled by the Commission under the Act of June 10, 1896. If the act of the Commission is final in one case it is final in all cases adjudicated by it where no appeal was taken.

We, therefore, respectfully submit:

1. That from October 14, 1887, until December 4, 1894, Fannie L. Rogers and Robert H. Rogers were bona fide citizens of the Cherokee Nation under every law of that Nation; that the Act of December 4, 1894, by its terms does not apply to them and that since there is no law by which their rights became forfeited they are today bona fide citizens of the Cherokee Nation and entitled to enrollment.

2. That the Dawes Commission still has jurisdiction to set aside its decision made under the Act of June 10, 1896, provided no appeal was taken under the provisions of that act, and that since, under the Act of June 28, 1898, the Secretary of the Interior exercises appellate jurisdiction over the said Commission in all matters relating to the preparation of the rolls of citizens of the Cherokee Nation, the Secretary has authority to direct the said Commission to enroll these applicants, and that since they are clearly entitled to enrollment their claim should appeal to the Department no less than the claims of minors and orphans did to the Cherokee National Council on December 4, 1894, and that these minor applicants should be enrolled.

Respectfully submitted,

Harry G Kingsball

Henry White

Attorneys for Applicants

BEFORE THE DEPARTMENT OF THE INTERIOR:

WASHINGTON.

In re:

Application for the enrollment
of Stonewall J Rogers et al as citizens
of the Cherokee Nation. Cherokee R #394.

Brief of the Cherokee Nation.

Statement.

The principal Applicant Stonewall J. Rogers was rejected by the Commission to the Five Civilized Tribes under the act of June 10th 1896 and he afterwards applied for enrollment under the act of June 28th 1898 and was rejected again by the Commission to the Five Civilized Tribes and the case forwarded to the Honorable Secretary of the Interior for approval.

Brief.

When the Commission to the Five Civilized Tribes rejected this applicant and no appeal was taken that judgment became final and is binding on him now.

Counsel now contends that inasmuch as he was admitted by the Cherokee Commission in 1887 that the latter judgment of the Commission to the Five Civilized Tribes should be set aside and the first judgment be taken. The applicant after he was admitted to citizenship in 1887 continued to reside in the State of Georgia; he failed to comply with the act of December 4th 1894, requiring all persons admitted to remove and lobate in the Cherokee Nation in six months after December 4th 1894 etc, and by his own actions when he came in 1896 admitted that he was not entitled under the Cherokee Laws and the Cherokee Constitution. Admitted by his own actions that he never had removed to and permanently located within the limits of the Cherokee Nation within the time prescribed by law; admitted by his own actions that he never became a citizen of the Cherokee Nation under the law admitting him, by not following up his readmission and locating permanently in the Cherokee Nation within the time prescribed by the act of December 4th 1894:

> "That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the pasage of this a t or from the date of readmission of such persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission: Provided that nothing in this act shall bar minors and Orphans."

And upon his arrival here in 1896 he realized that he had failed to comply with the act of December 4th 1894 and applied to the Commission to the Five Civilized Tribes under the act of June 10th 1896, as he had a right to do, and that tribunal decided that he was not entitled to citizenship in the Cherokee Nation and rendered a judgment adverse to his claim and when he took no appeal from the decision of this Commission it became binding.

So far as the children are concerned they were never citizens of the Cherokee Nation; their father was not a citizen when he married their mother; their parents were married in the state where these children were born and where they continued to reside until 1896; they never acquired any rights of citizenship to forfeit. But if they had they were barred by the act of December 4th 1894 (above quoted) which only excepts "Minors and orphans" meaning of course "Minors who are orphans" That is the only legitimate and sensible construction that can be placed upon that language because the citizenship of the child follows that of the fathers; that is the law everywhere. Suppose we attempted to place a different construction upon this language then an orphan or a person with deceasedparents would never have been barred under the act of December 4 1894. For the sake of the argument he might have been out of the Cherokee Nation for forty years after his parents were deceased he was an orphan and could, under counsels construction of the law, return and be recognized as a citizen of this nation. In other words if Stonewall J. Rogers, under counsels construction of this law, would prove that his parents were dead he would be an orphan and he would come himself within the provisions of the act. The contention of the Cherokee Nation is that it was the intention of the National Council only to protect orphans who were minors, or orphan minors or persons who were both orphans andminors with no one to look after them and this is the only legitimate construction that can be placed upon this language. Stonewall J. Rogers voluntarily applied to the Commission in 1896 and was rejected (If he had not applied to the Commission in 1896 he would not be entitled to enrollment under the act of December 4, 1894) It certainly would be a dangerous precedent to establish to open up the final judgments of the Commission rendered under the Act of June 10, 1896 and we submit therefore that it was the duty of the Commission to reject these applicants and that this decision should be affirmed by the Honorable Secretary of the Interior.

Respectfully,

W W Hastings

Attorney for the Cherokee Nation.

Department of the Interior,
RECEIVED.
OCT 5 1908
Enc. No. 1 of No. 868
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Stonewall J. Rogers et al
for enrollment as citizens of the Cherokee Nation.

No. Cher R. 394

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.
ss

AFFIDAVIT TO SHOW SERVICE.

This day personally appeared before me the undersigned a Notary Public within and for the Northern District of the Indian Territory, ~~J. C. Starr~~ R. G. Zimmerman who being by me first duly ~~sworn on oath states, that his age~~ is thirty-~~two~~ three ~~years and that his postoffice is~~ Vinita, ~~Indian~~ Territory, and that on the 1st day of October 1903 he deposited in the United States postoffice at ~~Vinita~~ I.T. Muskogee an envelope containing a true copy of the instrument hereto attached and he hereto attaches the receipt of the postmaster at said postoffice showing that he received said package to be duly registered and mailed to Stonewall J Rogers whose postoffice is Chelsea Indian Territory, ~~and attached to this affidavit is the registry return receipt duly signed by the applicant showing that said envelope containing a true copy of the instrument hereto attached was received by the said applicant.~~

R G Zimmerman

Subscribed and sworn to before me this 1st day of October 1903

J C Starr
Notary Public.

Cherokee D-394.

RFB
Hoke

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charley Blalock and his two minor children, Rosa and William Henry Blalock.

-:-

DECISION.

The record herein shows that on September 22, 1900, Charley Blalock appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation; that afterwards on June 3, 1901, the said Charley Blalock appeared before the Commission at Chelsea, Indian Territory, and made application for the enrollment of his minor daughter, Rosa Blalock, as a citizen by blood of the Cherokee Nation; that subsequent thereto, on October 31, 1902, a birth affidavit was filed herewith showing the birth of William Henry Blalock, on June 20, 1902.

The evidence herein shows that the principal applicant, Charley Blalock, is a Cherokee by blood, has, except as below noted, continuously lived in the Cherokee Nation since birth, and is duly identified on the Cherokee authenticated tribal roll of 1880, and the Cherokee census roll of 1896. It appears that for several years next before the filing of his original application herein, the applicant, Charley Blalock, had resided in the Quapaw reservation, but as it is further shown that he considers the Cherokee Nation his home, and it has always been his intention to return thereto, it is not considered that said applicant's rights to citizenship in said Nation have been forfeited. The minor applicants are children of the said Charley Blalock, have continuously lived with their father since birth, and are duly identified by birth affidavits filed herewith and made a part of the record in this case.

It is, therefore, the opinion of this Commission that Charley Blalock, Rosa Blalock and William Henry Blalock, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman

(SIGNED) T. B. Needles.
Commissioner

(SIGNED). C. R. Breckinridge.
Commissioner

Muskogee, Indian Territory.
MAY 9 1905

DEPARTMENT OF THE INTERIOR. FHE
WASHINGTON.

I.T.D. 5045-1902.
8681-1903.

October 14, 1903.

Ch RS

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Sir:

The Department is in receipt of your letter of October 1, 1903, transmitting a supplemental brief on the part of the Cherokee Nation in the case of Stonewall J. Rogers, et al., applicants for enrollment as citizens of the Cherokee Nation.

You state that a copy of the brief of counsel for applicants has very recently been served on you.

You are advised that the last action taken in this case was by the Dawes Commission on July 22, 1903; that since that time no motion by the attorneys for the applicants has been received by the Department. As, however, you state that brief of counsel for applicants has recently been served upon you, your argument is returned herewith as it bears no evidence of service upon such attorneys but upon Rogers himself.

Respectfully, Thos Ryan

Acting Secretary.

1 inclosure.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-394.

Muskogee, Indian Territory, May 2, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated May 2, 1905, granting the application for the enrollment of Charley Blalock, et al., as citizens of the Cherokee Nation of Shawnee blood.

You are advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Incl. S-45

Charley Blalock.

10879

MAY 24 1905 Cancelled and
Transferred to 10837

Cher D 395

Cher D 395

D395

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN.

[illegible]

[illegible] married [illegible]

[illegible] appears upon the [illegible] roll of 1880; he also [illegible] certificate of admission more fully described in the [illegible], certifying that one Ella Dawson, his wife, was admitted to [illegible] citizenship on the 9th day of September [illegible]; he also presents marriage certificate and license in due form, certifying that he was married according to the laws of the Cherokee Nation to said Ella Dawson upon the 24 day of March [illegible], [illegible] upon the census roll of 18[illegible]; [illegible] according to age and [illegible] will [illegible] by the [illegible] admitted, and [illegible] residence. [illegible] tion, [illegible] enrollment, [illegible] Ella Jackson, on the grounds [illegible] Cherokee [illegible] fraud; in accordance with the [illegible] of the Cherokee [illegible] enrollment of said [illegible] will [illegible] and [illegible] record.

[illegible] stenographer to [illegible] correctly recorded [illegible] and that the foregoing is a true [illegible] stenographic notes thereof.

M D Green

[illegible]

[illegible]ssioner.

CHEROKEE. D.395

Green W Jackson et al

April 12, 1904. Cancelled and No. 2 transferred to Cherokee 10755 and No 1 to R-905.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 324

Cher D 396

Cher D 396

D396

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
ACTING CHAIRMAN.

[illegible]

... A Yes, sir.

[illegible]

... please? A [illegible] Hicks, 11 years old.

Q Your next child, please? A Ruth [illegible] Hicks, 7 years old.

Q The next child? A Grace, 5 years old.

Q That is all, is it? A Yes, sir.

[illegible]

Samuel C. Jones

D 316

MAR 5 [illegible]

[illegible] CHAIRMAN

D. 396.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of George W. Hicks for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter and the applicant this day appears in person and by his agent, J. R. Sequitchie.

Cherokee Nation represented by W. W. Hastings.

COMMISSION: There is offered in evidence by the agent of the applicant a marriage certificate showing that George Washington Hicks and Mary Jane Bellew were united in matrimony by J. S. Murrell, a missionary, on the 25th day of October, 1888.

GEORGE W. HICKS, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A George W. Hicks.
Q Where do you live? A Live near Hobart, Oklahoma, postoffice was Oakdale that I gave before.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation, are you? A Yes, sir.
Q Is your wife, Jane M. Hicks, the identical Mary Jane Bellew who is mentioned in this certificate of marriage? A Yes, sir.
Q You submit the case to the Commission for consideration?
MR.SEQUITCHIE: Yes, sir.
COMMISSION: The applicant and his agent and the representatives of the Cherokee Nation present submit this case to the Commission, and the same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 27th day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 21 1902

D396

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 4th, 1902.

In the matter of the application of George W. Hicks for the enrollment of himself as a citizen by blood of the Cherokee Nation; for the enrollment of his wife, Jane M. Hicks, as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his children, Almon A., Ruth H. and Grace Hicks, as citizens by blood of the Cherokee Nation:

Supplemental to D-396.

Appearances:

Applicant appears in person.
Cherokee Nationby J. C. Starr.

George W. Hicks, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name, Mr. Hicks? A. George W. Hicks.
Q. What is your post office? A. Hobart, Oklahoma.
Q. What is your age? A. 45.
Q. What is your wife's name? A. Jane M. Hicks.
Q. Are you a citizen by blood of the Cherokee Nation?
A. Yes, sir.
Q. Is your wife a citizen by blood or white woman? A. White woman.
Q. When were you and your wife married? A. October 25th, '99.
Q. A little over two years, 3 years? A. Did I say '99?
Q. Yes. A. 1889.
Q. Were you ever married prior to your marriage to this wife?
A. No, sir.
Q. Was she ever married prior to her marriage to you?
A. No, sir.
Q. She is your first wife, you are her first husband?
A. Yes, sir.
Q. Have you lived together all the time since you were married?
A. Yes, sir.
Q. Never sepated? A. No, sir.
Q. She has never married any other man? A. No, sir.
Q. Living together on the first of September, 1902?
A. Yes, sir.
Q. How long have you lived in the Cherokee Nation?
A. All my life up to the year '85.
Q. Since that time you have located in the Wichitaw and Kiowa country? A. Yes, sir.
Q. That was all gone into in your former testimony? A. Yes, sir.
Q. Your wife has lived with you and the time you have been in that country? A. All the time; yes, sir.
Q. And these children, Almon A., Ruth H. and Grace, are your children by your wife JaneM., are they? A. Yes, sir.
Q. Are these children all living now? A. All living now; yes, sir.
Q. And they have lived with you all the time since their berth, have they? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the [illegible] hearings he reported the above [illegible] and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 29th day of October, 1902.

B. O. Jones
Notary Public.

Cherokee D 396.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George W. Hicks for the enrollment of himself and his minor children, Almon A., Ruth H. and Grace Hicks, as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, George W. Hicks appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor children, Almon A., Ruth H. and Grace Hicks, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Jane M. Hicks, as a citizen by intermarriage of said Nation. The status of persons claiming citizenship by intermarriage in the Cherokee Nation not being fixed at this time, the application for the enrollment of Jane M. Hicks, as such, will not be passed upon or considered in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 26 and October 4, 1902.

The evidence shows that the said George W. Hicks is a Cherokee by blood and is identified by the name of G. W. Hicks on the 1880 authenticated Cherokee roll; and that the other applicants herein are his children, born since the making of said roll. It further appears that all of the applicants herein are identified on the 1896 Cherokee census roll.

The evidence further shows that the said George W. Hicks lived in the Cherokee Nation from the time of his birth up to 1885; and that from 1885 up to and including the date of his application, he has been temporarily residing among the Indians in Oklahoma, having been assigned there as a missionary. It further appears that from 1882 up to the date of his said application, said George W. Hicks has maintained possession and control of a farm in the Cherokee Nation.

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain, et al. ([illegible]), that George W. Hicks, Almon A. Hicks, Ruth E. Hicks and Grace Hicks should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this SEP 18 1902

mD9

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D. 396

Muskogee, Indian Territory, September 22, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 18, 1903, granting the application of George W. Hicks for the enrollment of himself and his three minor children, Almon A., Ruth H. and Grace Hicks, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-9

CHEROKEE D' 396

George W Hicks et al.

OCT 12 1[illegible] Cancelled and transferred to Cherokee [illegible] 1084.

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D 397

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
ACTING CHAIRMAN

[illegible]

[illegible] Commission to the [illegible]
[illegible]

In the [illegible] R. Rivi[illegible] [illegible] and [illegible] sworn [illegible] as follows:

Q [illegible] A [illegible]
Q [illegible] A [illegible]
Q [illegible] A [illegible]
Q [illegible] A [illegible]
[illegible] A Yes sir
Q [illegible]
Q [illegible] A [illegible]
Q [illegible] A [illegible]
Q [illegible] A [illegible]
Q [illegible] A [illegible]
Q [illegible] A April 1875.
Q [illegible] roll [illegible] A I don't know.
Q [illegible] roll? A [illegible]
Q [illegible] certificate [illegible] issued [illegible] the Committee on Citizenship [illegible] 1880, signed [illegible] Assistant Commissioner, [illegible] Clerk, certified [illegible] copy of the original [illegible] Principal Chief, under the great seal of the [illegible] Nation [illegible] Sophronia A. Rivins to citizenship [illegible] Sophronia A. Rivins [illegible] Sophronia A. Rivins [illegible] A Yes sir.
[illegible] 1880.
[illegible] certifying that [illegible] April, 1875.
Q [illegible] have you any evidence [illegible] your wife Sophronia [illegible] at the time you married her? A I [illegible] before [illegible] and it [illegible] stay there, [illegible]
Q Is your wife [illegible] A Yes sir.
Q [illegible] A [illegible] sir.
[illegible]
[illegible] Rivins [illegible]
[illegible] roll [illegible]
Q [illegible] Nation?
A About [illegible]
Q Your wife [illegible] sir.
Q [illegible] A Yes sir.
Only [illegible] doctor.

[illegible] certificate [illegible] presented [illegible] Sophronia A. Rivins [illegible] in the [illegible] roll of 1880 [illegible] residence, and will be [illegible] as a Cherokee citizen by blood.

[illegible] license as described in the testimony, [illegible] certifying that he was married to [illegible] by the name of Sophronia Gregg in the year 1875, in [illegible] of April. And he pro-

POOR ORIGINAL -
BEST AVAILABLE COPY

[illegible]

I, [illegible], First [illegible], state that I [illegible] stenographer to the [illegible] the testimony and proceedings in [illegible] that the [illegible] is a true and [illegible] transcript of the stenographic notes thereof.

Subscribed and sworn to before me this [illegible] day of Sept [illegible].

Judge Advocate.

D. 397.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of James R. Bivin for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears in person.

Cherokee Nation represented by W. W. Hastings.

The said James R. Bivin, being first duly sworn, testified as follows:

COMMISSION: What is your name? A J. R. Bivin.
Q What is your full name? A James R. Bivin.
Q How old are you? A I am 64.
Q What is your postoffice address? A Vinita.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Do you desire to make any statement relative to your enrollment?
A Only correct a statement.
Q Correct what statement? A I want to correct a statement that I made before Mr. Needles at Vinita. I was mistaken in the dates is all.
Q When were you married? A April, 1875.
Q It appears from the testimony that this is the same date that you gave in when you made your original application? A I think I made the statement—he asked me why I didn't show my papers when he first—and I said I had been sitting there some time, and he had always asked an adopted citizen for their papers, and he hadn't asked me.
Q Is there any further statement you desire to make? A Well, I don't know as it is necessary.
Q You submit this case to the Commission for final consideration?
A No, sir, there is a valuable document at Tahlequah that I think I will be able to file.

The applicant desires permission to introduce a certified copy of a certain law passed by the National Council of the Cherokee Nation under which he claims to have been united in matrimony with his present wife. He will be granted fifteen days in which to supply the Commission with the same.

There is offered in evidence by the applicant a certificate from B. W. Alberty, Assistant Executive Secretary of the Cherokee Nation, bearing date of February 5, 1902, certifying that the records filed in his office show that J. R. Bivins was tried in the District Court of Cooweescoowee District, Cherokee Nation, for an offense against the law, and convicted by a jury in April, 1891, and tried a second time in said court and acquitted in April, 1892; and further that J. R. Bivins as shown by the register of permits issued to citizens to employ noncitizens obtained permits for F. Shipley and James Shipley and William Shipley and others. Also that the records show that the said J. R. Bivins was appointed guardian of Golda Bivins, a minor, on the 18th day of June, 1886, and that the election returns from Vinita Presinct, Cooweescoowee District, Cherokee Nation, show that said J. R. Bivins was one of the judges of the election at that presinct during the election held on August 2, 1897. The same is filed herewith.

There is also offered in evidence by the applicant, and filed in the case of his wife, Cherokee No. 3314, a certificate showing that Sa[illegible] A. Bivins was admitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship on the 15th day of September, 1880.

Q Well, now, with this exception you submit the case to the Commission?

A I believe I will.

The applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration. The same is ordered closed and reported to the Commission for a decision based upon the evidence now of record, in addition to the certified copy of the law which the applicant desires to be filed in the case. He will be given fifteen days in which to supply the same.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 27th day of February, 1902.

Commissioner.

7

Department oie Intrior,

Before the Commission to the Five Civilized Tribes,

At Muscogee I, T. March 24th 1902,

On the matter of the application of James R, Bivin, for the enrolement of himself as an intermarried white adopted citizen of the Cherokee Nation.

" D 397"

In obedience to a notification to the said James R, Bivin. of the time for final hearing and closeing of said case, by the Commission, appeared by his Attorney George W, Benge, who in behalf of said applicant agreed that the case be submitted to the Comission for final decision, with leave of fileing brief in behalf ofthe applicant.

" Brief"

The contention of the said James R, Bivin, is, that he is a n adopted white citizen of the Cherokee Nation, and entitled to be listed and enroled as such. for the following reasons,

"First" Because he, " J, R, Bivin" Did faithfully comply with all of the requirements of the laws of the Cherokee nation, regulating intermarriage between white men and Cherokee women, That he secured his marriage license of the Cherokee Nation and paid there for, his fee required by the lawsthere-of, that he did marry Sophrona Cra[illegible], a Cherokee citizen of said Nation, (see license filed,) That his wife at that time was treated as a citizen of the Cherokee Nation by the constituted authorites threof, That he and his wife has ever been , "since1876," treated as citizens of said Nation, by the authorities thereof, That he and his wife has been, and are resident in the Cherokee Nation since the year of 1873, that his wife was content with the belief that there could, or was no question as to her right to Citizenship, having been recognized by the authorities as such, But when she was refused enrolment by the census takers, in and for the 1880 roll, she went immediately to the Commission on citizenship, in September 1880, and made application for recognition as a Cherokee by blood, which was accordingly granted her by the Commission Court, authorised by the law of the Cherokee Nation, then sitting at Tahlequah Indian Territory, September 1880. That a certificate was, thus issued to said Sophronia, (then Bivin) dated September 16' 1880. That in as much as the said roll was not authenticated, or approved by the by the National Council until November 1880. And she having thus been admitted before the ratification of the said rolls, or census, she was ~~he was~~ decreed a citizen thereof, before said act, and to all intents and purposes she ~~is~~ was on the roll of 1880. That the act of the Commission only bore out the action of the former representative of the nation, wherein he was recognized and treated as a citizen of the nation, by the issuance of a license to marry her, as a citizen of the Nation, or as a Cherokee female citizen, as is contemplated in section659, page 329, of the compiled laws of the cherokee nation, (of 1892) And further Applicant has always, since his marriage been received and treated as a citizen of the nation by the officials thereof, The right to obtain permits to employ white labor, accorded citizens only, that the cherokee nation subjected applicant to the criminal laws thereof, more than once, was granted Guardianship over a minor, and was appointed Judge of an election, by and under the Cherokee law, was received and enroled as such intermarried citizen aforesaid, by the authorities of the nation, (see the several certificates to the above affect filed) the exercise and the enjoyment of which are accorded citizens only. And in view of the fact of having complied with all of the requirements of the law in good fai th , and in consequence thereof having been received and treated as a citizen by all of the authorities of the nation, above mentioned , and as enroled ,by the same authority, (see roll 1896,) Applicant should not now be barred after having exercised such rights for nearly thirty years, therefore the said James R, Elvin, should be listed for enrolement by the honorable Commission, as an adopted white citizen of said Nation.

Respectfully submitted,

G.W.Benge

Attorney for Applicant.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 4, 1902.

In the matter of the application of
James R. Bivins for the enrollment of
himself as a citizen of the Cherokee
Nation by intermarriage.

C. D. 397.

Brief on Behalf of the Cherokee Nation.

-:-

The testimony in this case shows that James R. Bivins was married to his wife, Saphronia Bivins, in April, 1875, or more than five years before she was re-admitted to citizenship in the Cherokee Nation, which was on the 15th day of September, 1880. Prior to her admission she was, of course, not a citizen of the Cherokee Nation, and if not a citizen of the Cherokee Nation she could confer no rights of intermarriage upon James R. Bivins by her intermarriage with him.

Section 659, Article 16, Compiled Laws of the Cherokee Nation of 1892 provides that "Every white man or citizen of the United States, or any foreign state or government, desiring to marry a Cherokee, Delaware or Shawnee woman, a citizen of the Cherokee Nation, shall be and is hereby required to obtain a license, &c." His wife was not a "citizen of the Cherokee Nation" as required by the Section hereinabove quoted, and as above observed if she was not a citizen of the Cherokee Nation of course she could confer no rights upon her husband, even if he had secured a marriage license and otherwise complied with the laws of the Cherokee Nation. In order to confer citizenship upon him it would have been necessary for him to have complied with the laws of the Cherokee Nation regulating intermarriage with white men subsequent to her admission, or after September 15, 1880. The fact that the Cherokee courts assumed jurisdiction over him is not conclusive as to his citizenship. Neither should it be considered persuasive, because either the tribal courts had jurisdiction or the United States Courts in the Indian Territory had jurisdiction, and the applicant might have found it more desirable to stand trial in the tribal courts rather than to have the case transferred to the Federal courts. There is nothing in the testimony to show that the question of the jurisdiction of the court was raised. If the defendant ~~permitted~~ submitted to the jurisdiction of the court without raising it then there was nothing for the court to pass upon; and the court did not pass upon the question of citizenship.

Respectfully submitted,

Attorney for the Cherokee Nation.

COMMISSIONER [illegible]

[illegible]

NOV 25 1892

Cherokee D-397.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 17, 1902.

In the matter of the application of James R. Bivin for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A James R. Bivin.

Q How old are you? A Sixty-four.

Q What is your postoffice? A Vinita.

Q Are you a white man? A Claim to be.

Q Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage? A Yes sir.

Q What is the name of the wife through whom you claim your citizenship? A Saphronia A. McDonald.

Q What was her maiden name when you married her? A Her maiden name was Craig.

Q Was that wife a Cherokee by blood? A Yes sir.

Q Is she living or dead? A She is living.

Q When did you marry her? A In '75.

Q Were you married under a Cherokee marriage license? A Yes sir.

Q Is she your first wife? A Yes sir.

Q Are you her first husband? A No sir.

Q She had been married before had she? A Yes sir.

Q Once or twice? A Once.

Q Was her first husband dead when you married her? A Yes sir, he was killed in the Southern Army about ten or twelve years before she married me.

Q Have you and your wife been living together ever since you were married? A Yes sir.

Q Never been separated? A A little while at a time, visiting or something like that. She goes to Missouri once in a while.

Q Visiting relatives there? A Yes sir.

Q There never has been any trouble with you and your wife? A No sir.

Q Your home is her home? A Yes sir.

Q You have been living in Vinita for the last twenty or thirty years? A Yes, in and around Vinita; we had a farm or two and occasionally we would move out on the farm a year or two and then come back home.

Q Your farm is in the Cherokee Nation? A Yes sir.

Q You never have made your home any where else for the past twenty or thirty years? A No sir.

Q Your wife is a Cherokee by blood? A Yes sir.

Q You never were married before you married her? A No sir, never had but one wife.

Q When was your wife admitted to citizenship? A In '80 I think.

Q Your wife was admitted in '80 was she? A She was put on the roll; I don't know whether she was admitted or not; he never has been a United States citizen.

Q You have been living with her ever since? A Yes sir.

Q You say you got out a Cherokee license to marry her? A Yes sir.

Q Had you regular signers? A No sir, we didn't have any signers at all; we didn't need any, that is what the judge toldme.

Q What kind of a license did you get? A A Cherokee license.

Q From whom, the Clerk? A Yes sir.

Q Clerk of what district? A Delaware.

Q You were married under that license were you? A Yes sir, and the Clerk told me it wasn't worth while; I had lived here several years before I applied to be married and they told me they was acquainted with me and my wife. The Clerk was her own uncle; he knew her from childhood.

Q Did you file your marriage license and certificate with this Commission? A Yes sir, they have all the papers.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 19th day of November, 1902.

B. C. Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
NOV 27 1902
ACTING CHAIRMAN.

Cherokee D 397.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 17, 1902.

In the matter of the application of James R. Bivin for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

JAMES R. BIVIN, being sworn, testified as follows:

By the Commission,

Q You say you married your wife in 1875? A Yes, sir.
Q Was your wife a Cherokee citizen at that time? A Yes, sir, she was always a Cherokee citizen.
Q Now, you say that she was admitted in 1880? A No, I guess not. It is surely a mistake, she applied to be enrolled.
Q In 1880? A To be put on the roll.
Q Of 1880? A Yes, sir.
Q Is she on the roll of 1880? A Yes.
Q From an examination of your wife's application, Mr. Bivin, it appears that she is not on the roll of 1880. A Well, Mr. Needles told me so when I first went before him when they was in Vinita, and she is on the roll of '80 I know, and different ones of the officers at Tahlequah told me so.
Q Your wife was a citizen at the time you married her? A The Council passed the Act and she was enrolled. She did not apply to be on the roll, but to be a citizen.
Q Who did she apply to? A To the Council.
Q What did the Council do? A They passed an Act enrolling the Craig children. Old Judge Craig was here in '87.
Q Was she living in the Cherokee Nation when you married her?
A No.
Q Where was she living? A In the edge of Missouri.
Q How long had she been living there? A Several years; she went there and got all her schooling.
Q Where was she born? A Either right over here on the neutral land or here in the Nation, she don't know which.
Q How long did she live out of the Nation? A I expect sixteen or eighteen years.
Q Out of the Nation? A Yes, sir.
Q From her birth up? A From her birth up near until she was about twenty-five.
Q She lived in Missouri? A Yes, sir.
Q And since, she come to the Cherokee Nation? A She was here a good deal of the time back and forth.
Q Where were her parents living? A In Missouri.
Q Was her father an Indian? A Her mother was, her father was a white man.
Q Her mother was a Cherokee? A A Cherokee.
Q Was her mother living in 1880, five years after your marriage, do you know? A I think not.
Q Was her father living then? A Yes, sir.
Q What was her father's name? A Sammy Craig.
Q From the time your wife was twenty years old has she been living always in the Cherokee Nation? A No, sir. She went back and forth, but she went to school a good deal.
Q But I am talking about after she was twenty or twenty-five?
A Yes, sir.

Q How old was she when you married her? A About thirty-two or three.
Q Where have you been living since you were married? A Living right here.
Q Never lived out of the Nation? A I traveled a good deal. She was an invalid six or eight years.
Q Did you ever live in Arkansas? A I lived there a little while at Eureka Springs.
Q Was you ever in Grant County, Arkansas? A Only during the war.
Q Were you in Arkansas during the years of '86, '87 or '88?
A No, sir.
Q You were not? A I have been to Chicago several times with cattle is about all I have been out of the Nation since '75, only when I shipped cattle. I have been over here to Southwest City several times to mill but have been right in and around Vinita all the time.
Q How long was your wife living in the Cherokee Nation before you married her? A A little over two years.
Q She come from Missouri? A We settled down here and I went to work in the spring of '73 and married in April, '75.
Q Were her parents living in the Cherokee Nation then? A No, sir
Q They were living in Missouri at the time you married? A Their home was in Missouri but they lived back and forth, but their connections was all here.
Q Did your wife ever get a certificate from the Council of what they did in the matter of her application? A I don't know. I don't think she ever got it, if she did she never showed it to me.
Q Did she make application? A Yes, sir.
Q Why did she make application? A She wanted to be on the roll. She never had applied to be on the roll and a Cherokee neighbor of hers told her he would introduce the matter before the Council to be enrolled and to be admitted. She was already a citizen.
Q Was she recognized as a citizen? A Yes, sir.
Q Has she any brothers and sisters in the Cherokee Nation?
A They all live here, some of them came out with me in '73, small children. All living right there around and above Vinita.

By Mr. Starr,

Q This application to the National Council was for readmission not admission? She had been living out of the Nation and wanted to be readmitted? A I don't know, I never paid much attention to it, and her brothers told me they would attend to it. I don't know much about that part of it. I didn't think the white men would ever get anything, and I was not much interested.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 13th day of November, 1902.

Notary Public.

E C M

Cherokee D-397.

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of JAMES R. BIVIN as a citizen by intermarriage of the Cherokee Nation.

DECISION.

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, September 22, 1900, application was received by the Commission to the Five Civilized Tribes for the enrollment of James R. Bivin as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 26, 1902, October 17, 1902 and January 5 1907.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, James R. Bivin, is a white man and neither claims nor possesses any right to enrollment as a citizen of the Cherokee Nation other than such right as he may have acquired by virtue of his marriage, on April 2, 1875, in accordance with Cherokee law, to one Saphronia A. Bivin, formerly McDonald, who was not, at the time of said marriage, a recognized citizen by blood of the Cherokee Nation, and who did not become a recognized citizen thereof until the date of her re-admission to citizenship in the Cherokee Nation by the Act of the Cherokee Citizenship Commission, dated September 15, 1880. The said applicant, James R. Bivin, and his Cherokee wife, Saphronia A. Bivin, are not identified upon the 1880 roll of the Cherokee Nation. The said applicant, James R. Bivin, did not, therefore, marry, in accordance with Cherokee law, a recognized citizen of the Cherokee Nation prior to November 1, 1875.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, in accordance with the decision of the Supreme Court of the United States dated November 5, 1906, in the cases of Daniel Red Bird et al., vs. the United States, Nos. 125, 126, 127 and 128, the said applicant, James R. Bivin, is not entitled, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), to enrollment as a citizen by intermarriage of the Cherokee Nation, and his application for enrollment as such is accordingly denied.

SIGNED Tams Bixby.

Commissioner.

Muskogee, Indian Territory,

FEB 14 19

C. D. 357. April 5, [illegible]

Geo. [illegible], Esq.,

[illegible], [illegible]

Dear Sir:

Enclosed [illegible] copy of [illegible] the [illegible] . 357, [illegible] . [illegible] [illegible]

[illegible],

[illegible],

REFER IN REPLY TO THE FOLLOWING:

Cherokee D.
387

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee,,Indian Territory, February 14, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 14, 1907, rejecting the application for the enrollment of James R. Biven as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Commissioner.

Enc I-48
RPI

D 39

Cherokee.

James R. Bivins

OCT 1 2 1907 Cancelled and transferred to Cherokee # 1085.

Cher D 398

Cher D 398

D398

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 22, 1900.

In the matter of the application of Isiah H. Long for the enrollment of himself and children as Cherokees by blood; being sworn and examined by Commissioner Breckenridge, he testified as follows:

Q What is your full name? A Isiah H. Long.
Q How old are you? A 27.
Q What is your post office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and two children.
Q Are you a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood? A 1/16.
Q How long have you lived in the Cherokee Nation? A All my life except what I have been out for school purposes.
Q Where did you go to school? A I went to Boliver, Missouri.
Q How long did you stay there? A During two terms.
Q That all? A Yes, sir.
Q When did you quit there?A I went there in 1888 and 1890.
Q Been living in the Cherokee Nation ever since 1890? A I have been at Muskogee at school in 1895.
Q When did you quit there? A I just when there one term.
Q You came back in 1896? A Yes, sir.
Q Been living here ever since? A Yes, sir.
Q Lived here all your life except absences for school purposes?
A Yes, sir.
Q What district did you live in in 1880, 20 years ago? A Delaware.
Q What district did you call your home four years ago, in 1896?
A Delaware.
Q Give me your father's name? A Robert H. Long.
Q Cherokee or white man? A Cherokee.
Q Dead or alive? A Alive.
Q Your mother's name? A Lucinda Long.
Q Cherokee or white woman? A White woman.
Q Dead or alive? A Alive.
Q Give me the name of these two children? A Henry H. Long.
Q How old is that child? A Three years old.
Q Give me the name of the next child? A Frances L., 2 years old.
Q What is the name of the mother of these children? A Maggie I. Long.
Q Is she living now? A Yes, sir.
Q White woman or Cherokee? A White woman.
Q When were you married to her? A September 6, 1896.
(The applicant presents a duly authenticated marriage license issued by the Clerk of the United States Court for the Indian Territory, Northern District, under date of September 5, 1896, authorizing his marriage to Miss Maggie I. Ketron. The certificate shows that they were married on the 6th of September, 1896, by the Rev. J. H. Hogan. This is filed herewith.)
A I am not on the 1880 roll. (Exhibits paper.)
(The applicant presents an official copy of a decree of the United States Court rendered by Judge Springer, Northern District, Indian Territory, showing that in case No. 181, on appeal from the decision of the Dawes Commission, certain persons were decreed by the Court to be citizens of the Cherokee Nation, and among them appears the name of Isiah H. Long.)
Q That is your name, is it? A Yes, sir.
Q This is recognized as official evidence of the admission of the applicant at the time stated. Your wife's name isn't in this decision? A No, sir.

[illegible] H. Long - 2.

Applicant [illegible] enrollment of himself and two children. He exh[illegible] of the [illegible] States Court [illegible], he has made his residence [illegible] continuously ever since that time and he will be [illegible] as a Cherokee by blood. Neither his wife nor [illegible] of his children are mentioned in said decision. His marriage [illegible] as shown in the testimony on September 6, 1900, [illegible] further consideration of the rights of his children [illegible] the application for their enrollment will be placed upon a [illegible], the applicant being required to supply the [illegible] properly executed certificates of their birth. When the [illegible] decision is made in regard to these children, it will be communicated to the applicant at his post office address, and whether favorable or unfavorable will be forwarded to the Secretary of the Interior for his final approval.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 24th of September, 1900.

C R Breckinridge

Commissioner.

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MAR 5 1952

ACTING CHAIRMAN

Supl.-C.D.#398.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Henry H. Long, et al., as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 10, 1902, that the case of his children would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of Commission's letter and applicant this day appears in person.

Mr. W.W. Hastings, Cherokee Representative, persent.

ISAIAH H. LONG, the applicant, being duly sworn, testified as follows:

BY COMMISSION:

Q What is your name? A Isaiah H. Long.
Q Where do you live? A I live at Afton, Indian Territory.
Q Are you the father of Henry H., Francois L. and Florea A. Long, who claim to be citizens of the Cherokee Nation? A Yes, sir.

Commission: There is offered in evidence a certified copy of the marriage license issued by James A. Winston, Clerk of the United States Court Northern District, Indian Territory, by W. E. Rowsey, Deputy Clerk, on the 15th day of December, 1896, authorising the marriage of Isaiah H. Long and Miss Maggie I. Kelton, and the certifing showing that they were married by~~XX~~ I. H. Hogan, a Ministdr of the Gospel, on the 16th day of December, 1896.

Q Were you ever married before you married this woman? A Yes, sir.
Q Was your first wife dead when you married her? A Yes, sir.
Q Was your wife ever married before she married you? A No, sir.
Q Is she living now? A Yes, sir.
Q Have you lived with her ever since you and she were married?
A Yes, sir.
Q Have you always resided in the Cherokee Nation? A Yes, sir, I have been here for; well most all my life, ever since I can remember
Q Living here now? A Yes, sir.
Q Your post office address now is Afton? A Yes, sir.
Q You moved since you made the original application to the Commission? A Yes, sir.
Q Do you submit this case to the Commission for finalconsideration?
A Yes, sir.

Commission: There is offered in evidence a certified copy of the judgement of the United States Court in the case of Robert H. Long and Lemuel D. Long, et al., versus the Cherokee Nation, No. 181. The same will be filed.

The applicant, Isaiah H. Long in behalf of his children, and the resprentative of the Cherokee Nation present submit this case to the Commission, and the same is ordered closed and reported to the Commission for final consideration based upon the evidence now on file.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee-D-398

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Isaiah H. Long, for the enrollment of his three minor childern, Henry H., Frances L. and Flora A. Long as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, the applicant, Isaiah H. Long, appeared before the Commission at Vinita, Indian Territory, and then and there made presonal application for the enrollment of himself and his two minor children, Henry H. and Frances L. Long as citizens by blood of the Cherokee Nation. Isaiah H. Long has been listed for enrollment on Cherokee Roll Card Field No. 8318. Further testimony was submitted in this case on February 26, 1902, at Muskogee, Indian Territory. On January 8,1901, there was filed with the Commission a duly executed birth affidavit from which it appears that Flora A. Long was born December 8, 1900, that she is the child of Isaiah H. and Maggie I. Long and that she was living at the date of the execution of the affidavit, said affidavit having been executed December 31, 1900. It appears from the evidence in support of this application and from the records in possession of this Commission that Isaiah H. Long filed his application for citizenship with the Commission to the Five Civilized Tribes on September 7, 1896, and the same was denied. An appeal was taken to the United States Court in Indian Territory, Northern District, and on November 10, 1899, the judgment of the Commission was reversed and said Isaiah H. Long was by said Court admitted to citizenship in the Cherokee Nation. It further appears that Isaiah H. Long was lawfully married to his wife, Maggie I. on September 6, 1896. Properly executed affidavits of birth for the minor children Henry H. and Frances L. Long have been filed with this Commission and it appears therefrom that Henry H. Long was born April 30, 1897 and Frances L. Long was born August 4, 1898.

The authority of the Commission herein is defined in Par.1, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Henry H. Long, Frances L. Long and Flora A. Long are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

9570 20 D— 919

IN RE

Application for Enrollment of

INFANT CHILD

Francis L. Long

as a citizen of the

Cherokee Nation.

Approved November 5 1900

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
NOV 17 1900
ACTING CHAIRMAN

Card No. 3899 39

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the Cherokee Nation, of [illegible]ncis L. Long, born on the 4th day of August 1898
Here insert name of child

Name of Father: Isaiah H. Long, a citizen of the Cherokee Nation.

Name of Mother: Margaret I. Long, a citizen of the Cherokee Nation.

Post-office, Vinita, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
Northern District.

I, Margaret I. Long, on oath state that I am 27 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of Isaiah H. Long, who is a citizen, by blood, of the Cherokee Nation; that a female (male or female) child was born to me on the 4th day of August 1898; that said child has been named Francis L. Long, and is now living.

Margaret I. Long

WITNESSES TO MARK.

(Must be Two Witnesses.)

Subscribed and sworn to before me this 18th *day of* September 1900.

W. A. Stanfield
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
Northern District.

I, Joseph Z. Scott, a Physician, on oath state that I attended on Mrs. Margaret I. Long, wife of Isaiah H. Long, on the 4th day of August 1898; that there was born to her on said date a female female (male or female) child; that said child is now living and is said to have been named Francis L. Long.

Joseph Z. Scott, M.D.

WITNESSES TO MARK.

(Must be Two Witnesses.)

Subscribed and sworn to before me this 18 *day of* September 1900.

My Commission expires July 23, 1904.

J. D. Rign
NOTARY PUBLIC.

4398

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20

IN RE

Application for Enrollment of

INFANT CHILD

Flora A. Long

as a citizen of the

Cherokee Nation.

Approved, JAN 8 1901 190

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JAN 8 1901
ACTING CHAIRMAN

~~3048~~ - 4398

[redacted]

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the Cherokee Nation, of Flora A. Long (Here insert name of child.), born on the 23" day of Dec, 1900

Name of Father: Isaiah H. Long, a citizen of the Cherokee Nation.

Name of Mother: Maggie I. Long, a citizen of the Cherokee Nation.

Post-office, Vinita, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
Northern District.

I, Maggie I. Long, on oath state that I am 27 years of age and a citizen, by adoption, of the Cherokee Nation; that I am the lawful wife of Isaiah H. Long, who is a citizen, by blood of the Cherokee Nation; that a female (male or female) child was born to me on the 23" day of Dec - 1900; that said child has been named Flora A. Long, and is now living.

Maggie I. Long.

WITNESSES TO MARK.
(Must be Two Witnesses)

Subscribed and sworn to before me this 31" *day of* Dec - 1900.

My Com Ex- 7/18" 1901 Preston S. Davis
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY.
Northern District.

I, A. M. Clinkscales, a Physician, on oath state that I attended on Maggie I. Long wife of Isaiah H. Long, on the [illegible] day of Dec -, [illegible]; that there was born to her on said date a female (male or female) child; that said child is now living and is said to have been named Flora A. Long

A. M. Clinkscales M.D.

WITNESSES TO MARK:
(Must be Two Witnesses)

Subscribed and sworn to before me this 31" *day of* Dec 1900.

My Com Ex. 7/18" 1901 Preston S. Davis
NOTARY PUBLIC.

HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
D. 596.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Asaiah H. Long for the enrollment of his three minor children, Henry H., Frances L. and Flora A. Long, as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-596.

IN THE MATTER OF THE APPLICATION

Henry H. Long et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 22, 1900
B. Mem^o of application. " 22, 1900
C. Birth affidavit. - Henry H. Long
D. " " - Francis L. Long
E. " " - Flora A. Long

Notice of final consideration 2/26/02
F. Certified copy of marriage license & certif.
G. Certif. of readmission
H. Supplemental testimony and order closing testimony, Feb. 26, 1902
See Cherokee [illegible] 3310

Sept 27 1902 C.R.B. Cancelled and transferred to Cherokee No 9570

Cher D 349

Cher D 349

D399

DEPARTMENT OF THE INTERIOR
OMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 22, 1900.

In the matter of the application of Cynthia May Maples for the enrllment of himself and child as citizen s of the Cherokee Nation; said Maples beingsworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A Cynthia May Maples.
Q How old are you? A 17.
Q What is your post office? A Chelsea.
Q Who is it you want to have put on the roll? A Myself and one child.
Q Are you a Cherokee by blood? A Yes, sir.
Q What prop ortion of Cherokee blood do you claim? A One-sixteenth.
Q Howlong have you lived in the Cherokee Nation? A All my life.
Q What is the name of your father? A Robert H. Long.
Q Cherokee or white man? A Cherokee.
Q Dead or aoive? A Alive.
Q Your mother's name? A Lucinda.Long.
Q Cherokee or white woman? A White woman.
Q Dead or alive? A Alive.
Q When were you married? A Married January,11, 1898.
Q Have you a certificate of marriage? A (Produces Certificate)

Com'r Breckinridge:))The applicant presents a marriage certificate showing that on the 11th day of January, 1898, she was married to Samuel W. Maples, of the County of Christian and State of Missouri, she being then Cynthia Long, by R. Cellers, Justice of the Pease.

(Q Where were you married? A Married in Missuouri.
Q What place? A Christian County.) and was under license issued by the Recorded of Deeds of the County of Christian, State of Missouri. The license was dated the 11th of January inthe same year. This is filed herewith.

Q Have you been admitted to citizenship by the United States Court? A Yes, sir.

The applicant presents an official copy of the Decision of Judge Springer, case No. 181, United States Court, Northern District Indian Territory, showing that on the 5th of December, 1899, the Judge corrected an error in a former decision, and decreed that the name of Cynthia Long, having been omitted in the order and judgment previously given, was then order in and inserted a part of the Judgment and decree; rendered in the case of, say Robert L. Long et. al., Versus the Cherokee Nation. This is accepted as official evidence of her admission. This is returned to the applicant.

Q Have you lived in the Cherokee Nation ever since you were admitted to citizenship? A Yes, sir.
Q Give me the name of your child? A Harvey S. Maples.
Q How old is the child? A Two years old.
Q When was the child born? A 25th of September,
Q What year? A I have forgot--1898.

Com'r Breckinridge:--The applicant applies for the enrollment of herself and one child: She is shown to have been admitted to citicenship by the United States Court in 1898. She has lived in the Cherokee Nation, she states, all her life, and she will be listed now for enrollment as a Cherokee by blood. Her change of name is established by the marriage license andcertificate fied herewith.

In regard to the application for the enrollment of her child; she is desired to supply the Commission with a duly authenticated certificate of the birth of said child. For the further consideration of any question of law that may arise in regard to the child, it will be placed at this time upon a white card, and final judgment will be suspended.

Cynthia May Maples---2.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission ot the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 24th day of September, 1900.

Commissioner.

D0397

Supl.-C.D.#399.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of HARVEY S. MAPLES as a citizen of the Cherokee Nation, introduced on behalf of applicant:

The applicant was notified by registered letter February 10, 1902, that the case of her child would be taken up by the Commission for final consideration on the 26th day of February, 1902: Isaiah H. Long this day appears in behalf of the applicant. Mr. W. W. Hastings, Cherokee Representative, present.

ISAIAH H. LONG, being duly sworn, testified as follows on part of applicant:
COMMISSION:

Q What is your name? A Isaiah H. Long.
Q Where do you live? A Afton, Indian Territory
Q Are you related to the applicant, Harvey S. Maples?
A Yes, sir
Q How? A I am his uncle.
Q Did his mother authorize you to appear before the Commission and x submit this case for the final consideration of the Commission in behalf of the child? A Yes, sir.

Commission: Isaiah H. Long in behalf of Harvey S. Maples and the representative of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for final decision, ~~based upon the evidence now~~ based upon the evidence now of record.

---oooOOoooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee-D-399

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Cynthia M. Maples for the enrollment of her minor child Harvey S. Maples as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 22, 1900, the applicant, Cynthia M. Maples appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her minor child, Harvey S. Maples, as citizens by blood of the Cherokee Nation. Cynthia M. Maples has been listed for enrollment on Cherokee Roll Card Field No. 5523.

It appears from the evidence in support of this application that Cynthia M. Long filed her application for citizenship in the Cherokee Nation with the Commission to the Five Civilized Tribes September 7, 1896, under the act of Congress, June 10, 1896, said application included other parties. The application was denied by the Commission and an appeal was taken to the United States Court in Indian Territory, Northern District, and the decision of the Commission was reversed, November 10, 1899. The judgment of the Court of November 10, 1899, was re-formed December 5, 1899 by admitting the name of Cynthia Long, daughter of Robert H. Long, to list of names admitted to citizenship by judgment of November 10, 1899, same having been erroneously omitted therefrom. It further appears that Samuel H. Maples was lawfully married to Cynthia Long on January 11, 1898. It further appears that on January 26, 1901 there was filed with the Commission an affidavit duly executed, October 3, 1900, from which it appears that Harvey S. Maples was born, September 28, 1898, that he is the child of Samuel H. and Cynthia M. Maples and that he was living at the date of the execution of the affidavit.

Cherokee-D-398

The authority of the Commission herein is defined in Par. 1, sec.21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Harvey S. Maples is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for his enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,
this JUN 9 - 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cher. D-599.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Cynthia M. Maples for the enrollment of Harvey S. Maples as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the person above named as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-599.

THE MATTER OF THE APPLICATION O

Harvy S. Maples

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 22, 1900
B - Memo of application, " 22, 1900
C - Marriage Certificate
D - Certified copy of judgment U.S. Court
E - Birth affidavit - Harvey S. Maples
F Notice of final consideration 2/26/02
G Court judgment in 1896

H Supplemental testimony and order closing testimony, Feb. 26, 1902.
I Mr. [illegible] re, letter

Sept 17, 1902 Cancelled and transferred to Cherokee Card D.C. 9569

See Jacket No 3393

Cher D 400

Cher D 400

D400

4659

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 25 1900

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I. T., [illegible], 1901.

[illegible]

Q What is your name? A [illegible].
Q How old are you? A 24.
Q What is your post office? A [illegible].
[illegible]
[illegible]
[illegible]
Q [illegible] husband? [illegible]
([illegible])
[illegible]
[illegible]
Q Were you ever married? A Yes, sir.
Q Did you leave him? A I left him, [illegible]
and I left him [illegible]
[illegible]
Q [illegible] A [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] A Yes, sir, I [illegible]
[illegible]
[illegible] turned over to [illegible] but my clothes, [illegible] piece [illegible] clothes [illegible]
[illegible]

Or [illegible].

[illegible] to his wife in 1894. [illegible] is found [illegible] on the roll of 1896, [illegible] while not identified [illegible] on the roll of 1880, her family [illegible] identified there, [illegible] to be a Cherokee citizen by blood [illegible] and [illegible] on the roll of 1880. He testifying that he and his wife [illegible] a year and a half after their marriage, there has been no divorce between them, and they have never lived together since. In view of the doubtful circumstances of this case, the application will be placed upon a doubtful card for further consideration, and the final decision of the Commission will be made known to the applicant at his post office address.

———0———

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Subscribed and sworn to before me this the 25th of September, 1900.

Commissioner.

Supl.-C.D.#400.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of NEWTON T. MARTIN, as a citizen of the Cherokee Nation, introduced on part of the Cherokee Nation:

The applicant was notified by registered letter February 10, 1902, that his case would be taken up by the Commission for final consideration on the 26th day of February, 1902. It furthr appears that said letter was returned to the Commission unclaimed, and that the whereabouts of said Newton T. Martin were unknown.

There is offered in evidence by the representative of the Cherokee Nation a registered letter showing that they endeavored to make proof of service on said Newton T. Martin that testimony would be introduced tending to disprove his right to enrollment as a citizen of the Cherokee Nation at the offices of the Commission at Muskogee Indian Territory, on the 26th day of February, 1902. This letter was addressed to applicant at White Oak, Indian Territory, that being the post office he gave to the Commission when the original application was made on the 25th day of September, 1900. This letter was also returned.

M. DANIELS, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HASTINGS:

Q What is your name? A M. Daniels.
Q Post office? A Vinita, Indian Territory.
Q I will ask you if you tried to get, in behalf of the Cherokee Nation, a service of a notice upon Newton T. Martin whose post office was given at White Oak~~[illegible]~~ that testimony would be taken in his case here before the Commission to-day?
A I did.
Q Well, what effort did you make? A I went out to White Oak and made inquiries there at the post office from different parties and I also inquired in the neighborhood and they told me that he had not been there for three or four months; that he was in Missouri or Kansas and that there had come mail there and they could not find him.
Q And you could not find him? A No, sir.

Mr. Hastings: The representatives of the Cherokee Nation move the Commission that they be permitted to take testimony in this case for the reasons shown in the above testimony for it has been impossible for them to serve a notice upon the applicant that testimony would be taken in this case.

Commission: In view of the facts set forth the request of the Cherokee Nation will be complied with and testimony heard.

ROSA MARTIN, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HASTINGS:

Q What is your name? A Rosa Martin.
Q What is your age, Mrs. Martin? A 31 years old, I was born in 1852.

Q What was your maiden name; what was your first name? A Rosa Ward.

Q Who was your first husband? A Bayless Langley.

Q When did you marry him, you remember? A No, sir; I don't remember.

Q Did you live with him until he died? A Yes, sir.

Q Who was your second husband? A Man by the name of Buchanan Gear.

Q When did you marry him, do you remember? A No, sir, I don't remember.

Q Well, was it before you married Martin? A Yes, sir.

Q You lived with him until he died? A No, sir.

Q What became of him? A He left me and went back to the State and it was reported to me that he was dead.

Q You don't know yourself? A No, sir.

Q Did you hear that report before or after you and Martin were married? A I heard it before.

Q Well, you afterwards married this a pplicant, Newton Martin?
A Yes, sir

Q Now, how long did you live with him? A 14 months.

Q Well, tell the circumstances about the separation?
A Well, I don't hardly know whether I can or not; he just skipped out; just left us, that I could not stand.

Q Well, did you leave him or he leave you A He left me.

Q Had he ever been married before? A He said he hadn't.

Q Well, when he left you where did he go to? A Up about Vinita, up in there.

Q Has he contributed anything to your support since? A No, sir, tried to take everything I had.

Q What did he take? A Sold my wagon and team and sold it: I replevied it and got it back.

Q Was your wagon and team? A Yes, sir. baught it with my strip money.

Q You never got any divorce from your second husband? A No, sir.

Q Well did he take this wagon and team when he went to leave and left? A Yes, sir, he took the wagon and team and sold it and come back one Sunday afterwards; that was on Thrusday, and then come back on Sunday afterwards and told me where it was and said that I could not get it; that I could go to Neal Ward and Musgrove and I could not get it.

Q Neal Ward was some relative of yours? A Yes, sir, he was a cousin.

Q And you afterwards replevied it? A Yes, sir.

Q Did he take any other property of yours away from there?
A No, sir, he had nothing else only a gun he bought with the strip money and then he got a plow at Turner's hardware Company and he took that off.

Q Well, the strip money was your strip money? A Yes, sir.

Q Did you have some children? A Yes, sir, had one.

Q How long had you and your second husband been separated before you married this man? A We had been separated about eight years.

Q You don't know where Martin is now? A No, sir; I haven't heard of him. He made plants after he left and said he would kill everything that drawed breath on the place and he was gone a little over a year and somebody put strychnine in the well.

Q In your well? A Yes, sir.

Q If you have anything else to say about it, say it? A That is all I believe.

COMMISSION:

Q You don't know of your own knowledge who put that strychnine in the well? A No, sir, we accused him of it.

Q You don't know it though? A No, sir; but when he come back, he said he heard we accused him of it and I said I did accuse him of it and he denied it.

Q This man you were living with just before you married Martin, were you informed he was dead before you married Martin? A Yes, sir.

Q You don't know whether he ever procured a divorce from you?

A No, sir, I don't think he did.

Q Have you heard anything about him since you, since he left you?

A No, sir, I heard he was dead.

Q Have you heard the report contradicted? A No, sir.

Q Now, when you separated from your husband Martin, did he leave you or you leave him? A He left me.

Q He stated to the Commission you left him? A We never did part but once and that is when he went off and stayed.

Q He said you left him and came back and then he left you and give you the place and everything on it? A No, he left me and took my wagon and teak just as I tell you and sold it to John Crutchfield and Hubbard down at Iola, and then he came back; I never did leave that man in the world.

Q Did he take anything else with him? A He took everything off the place that was there.

Q Take any house hold effects? A No, sir.

Q As a matter of fact did he take anything besides this wagon and team? A Wagon and team, barb wire, but he hadn't paid for that.

Q Did he bring it all back to you himself? A No, sir.

MR. HASTINGS:

Q He didn't bring anything back? A Never brought anything back.

COMMISSION:

Q Now, didn't you leave him at all? A No, sir.

Q He stated in his application that you left him sometimes as much as two or three months, A I did not leave him a week.

Commission: In view of the fact that it has been impossible to find out the whereabouts of the applicant and therefore not possible to notify him that this case was coming up for final consideration, it is directed in view of the facts that the case be ordered closed and reported to the Commission for final decision based upon the evidence now of record.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

JORosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

1) Martin 11

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of NewtonT. Martin as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September, 25,1900, Newton T. Martin appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 26, 1902.

The evidence shows that the said Newton T. Martin was married to Rosa Gear, a citizen by blood of the Cherokee Nation, on March [illegible], 1894, under authority of a Cherokee marriage license. The said Rosa Gear had been previously married to one Buchanan Gear from whom she was not divorced, and it is not clearly shown that he was dead at the date of her marriage to Newton T. Martin. She is identified on the 1880 authenticated tribal roll of the Cherokee Nation under the name of Rosey Langley, and she is also identified on the 1896 Census Roll of the Cherokee Nation.

The said Newtin T. Martin is not identified on any of the tribal rolls of the Cherokee Nation in possession of this Commission.

Section twenty-one of the Act of Congress approved June 28, 1898(30 Stats., 495), provides for the enrollment of Cherokee citizens

> "with such intermarried white persons as may be entitled to citizenship under Cherokee law."

It further appears that the said Newton T. Martin lived with Rosa Martin as his wife about two years, and then abandoned her. If rights were conferred by reason of the marriage of Newton T. Martin to Rosa Gear, the law of the Cherokee Nation found in the Compiled Laws of said nation (1892) section 667, is applicable to this case:

> "Every person who shall lawfully marry under the provisions of this act, and afterwards abandon his wife, shall thereby forfeit every right and privilege of citizenship in this nation."

It is, therefore the opinion of this Commission that the application for the enrollment of Newton T. Martin as a citizen by intermarriage of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

T. B. Needles
Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

this ____________ 1902 ______

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.
J. C. STARR, SEC.

OFFICE OF
ATTORNEYS FOR CHEROKEE NATION
BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F D 400

Muskogee, I. T., Jan. 16, 1902.

Mrs. Rosa Martin,
Chouteau, I. T.

Madam:

I see from the records in the case of Newton T. Martin that you were once his wife, and he claims that you left him and that he did not abandon you.

Write me whether or not either of you were ever married before and if so were you divorced. Write me also, fully, the cause of your separation, and in fact anything which might effect his right to enrollment and oblige.

Yours very truly,

W. W. Hastings

[illegible] Centralia
January, 24 1902

[illegible] Hastings
I received your leter the.22 i have negelected going to the office. You wanted to know whether i left mr martin or he left me he left me with out eny cause what ever. he took my wagon an team an sold them to Hubard an Crutchfield and I replevied them an got them back. I have been married three before I married him my first man died an the other one done like mite marting lif he took what i had an left me. I never got no devorce.

If you want a sworing statment i will send it to you and have others sine it. yours truly
Rosie martin

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.
J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F D

Muskogee, I. T., Feb. 13, 1902.

Mrs. Rosa Martin,
Chouteau, I. T.

Dear Madam:

Enclosed herewith find a subpoena for your attendance before the Dawes Commission at Muskogee on February 26th, 1902. Please acknowledge service and advise us if you will be on hand on that date.

Yours very truly,
W W Hastings
Attorney for the Cherokee Nation.

SUBPOENA.

INDIAN TERRITORY,
Cherokee Nation.

TO THE MARSHAL FOR THE CHEROKEE NATION.

You are Commanded in the Name of the Cherokee Nation, by authority of an act of the National Council of the Cherokee Nation, approved by the President Dec. 28th, 1900, entitled: "An Act providing for the representation of the Cherokee Nation before the United States Commission in making a roll of the [illegible] citizens of the Cherokee Nation," to summons

Mrs. Rosa Martin, Chouteau, I. T.

to be and appear before the United States Commission at Muskogee, I. T., ~~District~~ on the 26th day of February, 1902 then and there to give evidence in such contested citizenship cases as the Attorneys for the Cherokee Nation may desire.

Given from under my hand this the 13th day of February, 1902

W. W. Hastings

Attorneys for the Cherokee Nation.

MARSHAL'S RETURN.

INDIAN TERRITORY,
Cherokee Nation. } SS.

I HEREBY CERTIFY That I received the within summons on the .... day of .... 1901, and that I served the same by copy, as follows:

Personally on .... at .... this .... day of 1901
Personally on .... at .... this .... day of 1901
Personally on .... at .... this .... day of 1901
At residence of .... at .... this .... day of 1901
At residence of .... at .... this .... day of 1901
At residence of .... at .... this .... day of 1901

With a member of witness's family over fifteen years of age there residing.

....
Marshal for the Cherokee Nation.

SUBPOENA.

INDIAN TERRITORY,
Cherokee Nation.

TO THE MARSHAL FOR THE CHEROKEE NATION:

You are Commanded in the Name of the Cherokee Nation, by authority of an act of the National Council of the Cherokee Nation, approved by the President Dec. 28th, 1900, entitled: "An Act providing for the representation of the Cherokee Nation before the United States Commission in making a roll of the colored citizens of the Cherokee Nation," to summons

Rosa Martin

to be and appear before the United States Commission at Muskogee I. T., ~~in~~ District on the 26th day of Feb 1902 then and there to give evidence in such contested citizenship cases as the Attorneys for the Cherokee Nation may desire.

Given from under my hand this the 20 day of Feb 1902

W W Hastings

Attorneys for the Cherokee Nation.

D400

MARSHAL'S RETURN.

INDIAN TERRITORY,
Cherokee Nation. } SS.

I HEREBY CERTIFY That I received the within summons on the 20th day of Feb 1902 and that I served the same by copy, as follows:

Personally on [illegible] at her home this [illegible] day of Feb 1902

Personally on [illegible] at .... this .... day of 1901

Personally on [illegible] at .... this .... day of 1901

At residence of .... at .... this .... day of 1901

At residence of .... at .... this .... day of 1901

At residence of .... at .... this .... day of 1901

With a member of witness's family over fifteen years of age there residing.

....
Marshal for the Cherokee Nation.

I served subpoena today she said she would be down Wednesday morning she thought you wanted her on a [illegible] case. But I explained [illegible]

C D 400

C D. 400

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on ....

by delivering a true copy thereof on the ....day of .... A. D. 190.

Given under my hand this .... day of .... A. D. 190

....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the ....day of ...., 190 .

....
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ....

on the day of .... A. D. 190....

....

Subscribed and sworn to before me this ....

....
Notary Public.

NOTICE!

IN THE MATTER OF the application of Newton T. Martin,
for enrollment as Cherokee citizens:

Case No. D 400

To Newton T. Martin, White Oak, I. T.:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on Feb. [illegible], 190[illegible], **at 8 o'clock A. M.** or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Feb. [illegible], 190[illegible].

W. W. Hastings

Attorneys for the Cherokee Nation.

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF
ATTORNEYS FOR CHEROKEE NATION
BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F D C. D.

Muskogee, I. T., Feb. 21, 1902.

Mrs. Ross Martin,
Chouteau, I. T.

Dear Madam:

We desire Your attendance before the Dawes Commission here on Feb. 26th, 1902. So please be on hand promptlY on that date.

RespectfullY,

AttorneY for the Cherokee Nation.

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF
ATTORNEYS FOR CHEROKEE NATION
BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F D C. D. 400.

Muskogee, I. T., Feb. 21, 1902.

Mr. M. Daniel,
Muskogee, I. T.

Dear Sir:

The case of Newton T. Martin, whose post-office is White Oak, I. T., is set for Feb. 26th, 1902. And enclosed herewith find notice which please serve on him at once, so as to get proof of service back here in time for trial. You can serve this MondaY, or after You serve the MarY C. Carroll papers. Drive out to White Oak as soon as You can, bY MondaY at least, and see if You can find him. We will have the witnesses here on Feb. 26th and we certainlY will have to have service on him before we can put in anY testimonY.

Yours trulY,

ED SHANAHAN, Mayor
W. H. DREW, Recorder
J F QUILLIAN, Treasurer
S F PARKS, City Attorney
J F. LEDBETTER, Marshal

THE MAYOR'S OFFICE

ALDERMEN:
L C COUCH
L P ISBELL,
J L SHERER,
C T MOORE,
F G COWAN

Vinita, Indian Territory, Feb 24 1902

J. C Starr
Sir

I have been out in Search of Newton Martin. am informed that he has left the country. has been gone about four months last heard from was in Galena Kansas=

Yours Respectfully
McDaniel

COMMISSIONERS,
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 400.

Muskogee, Indian Territory, July 29, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rejecting the application of Newton T. Martin for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

The decision, with a copy of the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Yours truly,

Commissioner in Charge.

Enc. C. No. 80.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:
Cherokee D 400.

Muskogee, Indian Territory, October 7, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date July 29, 1902, rejecting the application of Newton T. Martin for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior on August 29, 1902.

Respectfully,

Acting Chairman.

N THE MATTER OF THE APPLICATION

Newton J. Martin

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 25 1900
B. Memo of application " 25. 1900
C. Marriage License and certificate
D Notice of final consideration 2/26/02
E Unclaimed notice of final consideration

F.

Unclaimed proof of service of notice

G Supplemental testimony and order closing testimony, Feb. 26, 1902

Transferred to R-681

Cher D 401

Cher D 401

D401

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
[illegible]NG CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 24, 1900.

In the matter of the application of Jessica [illegible] Rivers for the enrollment of herself and children as Cherokees by blood; being sworn and examined by Commissioner Breckinridge, she testified as follows:

Q What is your full name? A Jessica [illegible] Rivers.
Q How old are you? A I am 34.
Q What is your post office? A My post office at present is Vinita.
Q In what district do you live? A I am living with Mrs. Anderson.
Q In Cooweescoowee district? A Yes, sir.
Q Who is it you wish to have put on the roll? A I wish to have myself and my two children.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A 1/4.
Q How long have you lived in the Cherokee Nation? A I have lived here ~~xxxxx~~ time and again once in a while, but I haven't lived here all the time, I was married in California and I have no residence, my ~~xxxxxxx~~ husband is a mining expert and we go from one place to another; I am at present in Alaska; I was born in Texas.
Q Have you ever been recognized as a citizen of the Cherokee Nation? A Yes, sir, I have; I am on [illegible] two rolls.
Q Have you ever been admitted to citizenship by the Cherokee Commission? A Yes, sir.
Q Have you a certificate of admission? A Yes, sir, I have, but I haven't it here, I think Chief Buffington has it, I have written to him [illegible] so he couldn't [illegible].
Q In what year were you admitted? A I think it was in 1887 or [illegible] another time; I was on the last roll; my two children were admitted on the last roll, not on the 1887 I think.
Q What is your father's name? A My father's name is Andrew Jackson [illegible].
Q Cherokee or white man? A He is a Cherokee.
Q Is he living? A He is dead.
Q How long has he been dead? A He died the 17th of last month.
Q What is your mother's name? A [illegible] Helen C. Doo, that was her maiden name.
Q Cherokee or white woman? A White woman.
Q Is she dead or alive? A She is dead.
Q What was your full maiden name? A Jessica [illegible], but since I have married I have dropped the "E" and just use the "R".
Q Have you a marriage certificate or license? A Not in the Cherokee Nation.
Q Have you any? A Yes, sir, I haven't it here because I didn't know it was necessary, I can send for it, but I am not wanting to enroll my husband because he has never been married by Cherokee law.
Q You married in what year, do you state? A I married in 1887, June 13; I have been married 13 years last June, I was married in 1887.
Q Tell me [illegible] where you have lived since your marriage? A I have lived in California, Oregon, Colorado, New Mexico, and Alaska twice, and then back to California again and back to Alaska, and back out here; I have been in all these places since I have been married.
Q Your husband you say is a mining expert? A Yes, sir, he goes from one place to another, and sometimes I stay at home and rent a house furnished and stay a little while, and then go off again. Now at present I have my children in school and I have been up with him in Alaska.
Q Have you retained some interest all the time in the Cherokee

Nation? A Yes, sir, I have, there is a lot left to me, [illegible] that we have, I think it is in the name of my children, and the same property down on the Spavinaw and then on Honey Creek.

Q You have kept that all the time? A Yes, sir, it has been kept in the family all the time.

Q Have you considered the Cherokee Nation your home all the time? A No, I can't say I considered it my home because I haven't considered any place my home in particular, but I haven't lived here near as much as I have other places, I have to say that.

Q Have you considered living at other places that you had permanently abandoned the Cherokee Nation, and or have you kept your political home here? A I have always really considered that this was my place, my father was always enrolled here, although he has lived at different places here.

Q You have been compelled, on account of your husband's occupation, to spent very little time in the Cherokee Nation? A Yes, sir, and probably unless he changes I will have to spend very little time here unless I come here and stay and put the children in school.

Q Where are the children now? A In Berkeley, California in school.

Q Were they born in California? A Yes, sir.

Q Have they ever been to the Cherokee Nation? A Yes, sir, they have both been to the Cherokee Nation.

Q Give me the names of your children, please? A My little girl is named Helen Elizabeth Nivins.

Q How old is that child? A She is [illegible] years old the [illegible] of last February.

Q The next child, please? A Archibald Ridge Nivens.

Q How old is that child? A [illegible] years old.

Q That is all, is it? A Yes, sir.

Q Both living, are they? A Yes, sir.

(Jessica Ridge Nivens on 1896 rolls, page 511, No. 2279, Jesse R. Ridge Nivens, Delaware district. Helen E. Nivens on 1896 roll, page 511, No. 2280, Delaware district. Archibald R. Nivens on 1896 roll, page 511, No. 2281, Delaware district.)

Q How long have you owned farming property here? A We have had the property on the river down here, that has been in the family since our [illegible] first came here, it wasn't made over to my family or that branch of the family, it has been in [illegible] family [illegible] they gave it over to my father.

Q How long have you and your husband owned property distinctly in the Cherokee Nation? A I have never owned any distinctly to myself, only my children have some.

Q It has been an undivided interest? A Yes, sir; there are a great many Cherokees that have no property at all, you know.

Q Have you drawn rents from that property in the Cherokee Nation in the last seven or eight years? A I have drawn money, I have drawn my rents.

Q I am talking about rents from farm lands? A No, I haven't.

Q You haven't had property that has yielded you an income? A No, I haven't.

Q You state that you have had property rights all the time in the Cherokee Nation in an undivided estate? A Yes, sir.

Q Have you been in the Cherokee Nation any since December 4, 1894, or were you here at that time? A I was here, I think at the time that I was enrolled; I was here.

Q That was to get your strip money? A Yes, sir, I was here at that time and I got my money and the children's.

Q Did you stay here any length of time? A Yes, sir, I stayed a little while.

Q Then when did you come back again? A I have come back now is the only time I have come back.

The applicant applies for the enrollment of herself and two children. She states that she was admitted by the Cherokee Commission in 1887, she is identified on the roll of 1896 as a native Cherokee, she states that her husband is a mining engineer and the character of his business leads him to different localities and does not permit of a permanent domicile, but that she has always considered the Cherokee Nation as her home. Reference is made to the testimony for details in this regard. The application for her enrollment will be taken under advisement, and for the present will be placed upon a white card for the consideration of the full Commission. She is desired to supply the Commission with an official copy of the act of the Cherokee Commission admitting her to citizenship in 1887. Her two children are identified with her on the roll of 1896, they both were born since her admission to Cherokee citizenship, they are both living at this time, and they will be listed with their mother upon a white card for further consideration of their status. The final decision of the Commission will be communicated to the applicant at her post office address.

---o---

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C Jones

Sworn to and subscribed before me this the 24th of September, 1900.

Commissioner.

D401.

1902

"R"

D 401

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Jesudea R. Nivens, for the enrollment of herself and children as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 10, 1902, that her application for the enrollment of herself and children as citizens of the Cherokee Nation, would be taken up by the Commission for final consideration on February 26, 1902, and that she could on said date appear before the Commission either in person or by attorney, when an opportunity would be given her to introduce any further testimony affecting her application.

Applicant having been called three times this day, to-wit: the 26th day of February, 1902, and failing to respond either in person or by attorney, the case is ordered closedm and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee-D-401

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES,

In the matter of the application of Jessica R. Nivens for the enrollment of herself and her two minor children Helen E. and Archibald R. Nivens as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 24, 1900, the applicant, Jessica R. Nivens, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her two minor children, Helen E. and Archibald R. Nivens as citizens by blood of the Cherokee Nation. It appears from the evidence in support of this application ~~and from the records~~ of the Cherokee Nation in possession of this Commission that Jessica R. Nivens was readmitted to citizenship in the Cherokee Nation on April 7, 1887 and that she has not removed to and in good faith settled in the Cherokee Nation or Indian Territory, since date of her readmission to citizenship. She is identified on the 1896 census roll of the Cherokee Nation, page 511, No. 2279. Her minor child, Helen E. Nivens, is identified on said roll page 511, No. 2280. Her minor child, Archibald R. Nivens, is identified on said roll page, 511, No. 2281. It does not appear that either of the minor children, applicants herein, have removed to and in good faith settled in the Cherokee Nation or Indian Territory.

The authority of the Commission herein is defined in Par. 9, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495):

> No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

Cherokee-D-401

It is therefore the opinion of this Commission that Jessica R. Wivens, Helen E. Wivens and Archibald R. Wivens are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-401.

Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith enclosed the decision of the Commission to the Five Civilized Tribes in the matter of the application of Jessica R. Nivens for the enrollment of herself and her two children, Helen E. and Archibald R. Nivens, as citizens of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. R-10.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 401.

Muskogee, Indian Territory, September 4, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of date May 20, 1902, rejecting the application of Jessica R. Nivens for the enrollment of herself and her two minor children, Helen E. and Archibald R. Nivens, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on August 21, 1902.

Respectfully,

Tams Bixby
Acting Chairman.

IN THE MATTER OF THE APPLICATION OF

Jessica R. Nevans et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony. September 24. 1900
B Mem: of Application " 24. 1900
C Order of Readmission
D Letter of Com. ack. receipt of Order of Readmission. R to W.
E Notice of final consideration 1/26/02
F Certif from doctor

G Order closing testimony, Feb. 26, 1902
H Unclaimed reg. letter

Transferred to R-682

Cher D 402

Cher D 402

DH02

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 11 1900

Acting Chairman

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 24th, 1900.

IN THE MATTER OF THE APPLICATION OF Charles J. Newman for the enrollment as a citizen of the Cherokee Nation of his wife, Katy Newman, and Charles J. Newman, being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Charles J. Newman.
Q What is your age? A Will be fifty two in March.
Q What is your Postoffice? A Vinita.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A No sir, I guess not; only by intermarriage.
Q For whom do you apply for enrollment? A For my wife.
Q Any children? A No sir.
Q What is the name of your wife? A Katy ~~Newman~~. Dawson was her name.
Q Her name now is Katy Newman? A Yes sir.

The applicant presents a marriage certificate, certifying that Charles J. Newman was married to Miss Katie Dawson, according to the laws of the United States, on the 2nd day of July, 1899.

The applicant presents a certificate of admission, issued from the Executive Office of the Cherokee Nation, under date of the 13th of November, 1896, signed by [illegible], Assistant Executive Secretary, under the great seal of the Cherokee Nation, certifying that among others, one Rial Dawson was admitted to citizenship on the 11th day of January, 1883.

Q What is the name of your wife's father? A Rial Dawson.
Q What is the name of her mother? A Catherine Dawson.
Q Is Rial Dawson living? A Yes sir.
Q Your wife, Katie for whom you apply now, is the daughter of Rial Dawson, whose name appears in the certificate that you present? A Yes sir.
Q When was your wife born? A She will be twenty years old her next birth day.
Q Born in 1880 then? A Yes sir.
Q Her name does not appear in the certificate you present?
A No sir., but I think it appears on the roll of 1896.
(1896 Roll, Page 161, 911, Catherine Dawson, Delaware Dist)

The name of Catherine Dawson appears upon the census roll of 1896: The applicant avers that she is the child of Rial Dawson, whose name appears in the certificate of admission, more particularly described in the testimony, but the name of Katy does not appear in the said certificate, although she was born in the year of 1880, and her father was admitted in the year 1883. Satisfactory proof has been made of her residence, but because of her name not appearing in the original certificate of admission; also on account of the protest of the Cherokee Nation against the enrollment of Rial Dawson, as well as any of his descendants, final judgment as to the enrollment of the said Katy (Catherine) Newman, nee Dawson, is suspended and her name will be placed upon a "Doubtful Card".

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me this 24th day of September, 1900.

COMMISSIONER.

D402

[illegible]
FILED
MAR 31 1902
ACTING CHAIRMAN

Cherokee D-402

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 18,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of Katie Newman for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, attorneys for the applts
W.W.Hastings, attorney for the Cherokee Nation.

MR. MELLETTE: I want to introduce the certificate on page 114 of the record.

BY COMMISSIONER NEEDLES: Copy record in the matter of the enrollment of Elbert Dawson and others, on citizenship court record, page 114, No.108. Applicant asks that a copy of the decree of said case be made a part of the record in the case at bar, and same is ordered.

SAMUEL RILEY DAWSON, being first duly sworn and being examined, testified as follows:
BY COMMISSIONER NEEDLES:

Q What is your name? A Samuel Riley Dawson.
Q Whatis your age? A Somewheres up in 60.
Q What is your post-office address? A Afton,

BY MR.MELLETTE:

Q Are you the Rile Dawson admitted to citizenship by the Tehee Commissioners Court on the 11th day of January,1883,- your name is Samuel Riley Dawson? A Yes sir. They just put it down Riley/.
Q Did you have an uncle named Rile Dawson also?A Yes sir.
Q Was he admitted? A No sir.
Q Was he rejected? A Yes sir.
Q Now what relation is Katie Newman to you?A She is my daughter.
Q How old was she when you removed to the Cherokee Nation after you were admitted; was she a minor? A She was a minor, I don't know whether she was 4 or 5 years old.
Q Where has she lived since you brought her after you were admitted? A Lived with me until she was married and then lived to herself.
Q ~~How long has~~ In what Nation has she lived? A In the Cherokee Nation.
Q Now when were you married to her mother? A It was sometime in '60; I couldn't tell you.
Q You were married in California were you not? A Yes sir.
Q A certificate of marriage is on file in your own case is it not? A Yes sir.

BY MR. MELLETTE: I want to see the pay roll of 1886 and the pay roll of 1890, of Delaware District.

1886 pay roll , No page no. No. 678, Catchrine Dawson, Delaware district.
~~1884~~ 1894 pay roll of citizens of the Cherokee Nation examined and applicant identifiedon
page 379 No.786 Catherine Dawson, Delaware district.

Q Is that your daughter, Katie Newman, whose name appears there? A Yes sir.

Pay roll Cherokee Nation, 1890, Delaware District, No.331, Catharim Dawson.

BY MR.HASTINGS:

Q Did you bring this daughter of yours with you here? A Yes sir.
Q What year? A In 1886.

Q Is that when you moved to that country, in 1886? A Yes sir.
Q What time of the year? A I don't know whether it was April or May.
Q It was April or May, 1886? A Yes sir.
Q Has she lived here continuously since that time? A Yes sir.
Q All the time? A Yes sir.
Q Never been out? A Never been out.

BY MR. MELLETTE: Reference is made to the Samuel R. Dawson case, Cherokee Doubtful 350, especially to show the marriage of the father and mother of this claimant.

Reference is also made to the case of Francies M. Dawson, Cherokee doubtful Number D 324,- I will not ask that the testimony be copied; I don't submit these cases to the Commission, because the Cherokee Nation wouldn't want it submitted, but this evidence is outside of the testimony that is taken on the other question in the case that is pending in the case.

The record, page 114, Record Cherokee Citizenship Commission, above introduced, is as follows:

"Office Commission on
Citizenship, Tahlequah, C.N.
September 24th, 1881.

No. 108,
Robt Dawson,
Elbert Dawson,
Jasper Dawson,
John Dawson,
Josephine Dawson,
Joseph Dawson,
John Dawson,
Molly Dawson,
Wilbron Dawson,
James Dawson,
Rial Dawson,
V.S.
Cherokee Nation.

Petition for citizenship.

Continued by the plaintiff,
Oct. 5, 1881.

January 13th, 1882.

The above case continued by the Cherokee Nation till Sept. term. Agreed by the parties that the above case shall be not be taken up for final disposition before the 4th day of Oct. 1882

October 4th, 1882.

It is agreed by the parties that this shall be finally disposed of at the next January term, if the Claimant is is present- demanding the same, if not, the case shall be then continued to the September term 1883.

On this agreement Commission continues the case till the next January term, to wit January 1883.

And now on this 11th day of January A.D. 1883 this case coming on for final hearing and all the evidence produced in the case being carefully read and duly considered by the ~~[illegible]~~ Commission, it was adjudged and determined by the Commission on Citizenship that the Claimants, Robert Dawson, F.M.Dawson, Elbert Dawson, Jasper Dawson, John Dawson, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly Dawson, Wilbren Dawson, James Dawson and Rial Dawson, are Cherokees by blood; and that they are entitled to all the rights and privileges of Cherokee citizenship within the Cherokee Nation, and that they should be, and they are, hereby admitted to the full and complete enjoyment of the same in all respects as native born Cherokees.

Thos Tahee, President of Com.
Alex Wolfe, Commiss-
T.P.Thompson, sioners.

D.W.C.Duncan,
Clerk of Commission.

Transcript issued to Claimants, January 11th,1883.
D.W.C.Duncan,
Clerk."

Marginal note as follows: "Case submitted by Claimant, January 11th,1883.
Case submitted by the Solicitor, January 11th,1883."

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I,M.D.Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

M.D.Green

CHEROKEE.

D.402

Katie Newman

Cancelled and transferred to Cherokee Doc 10,7[illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See R 324

Cher D 403

Cher D 403

Department of the Interior.

Commission to the Five Civilized Tribes.

Vinita, IT. September 24, 1900.

IN THE MATTER OF THE APPLICATION OF WILLIAM E. DEUPREE FOR THE ENROLLMENT OF HIMSELF AND CHILDREN AS CHEROKEE CITIZENS.

The said William E. Dupree, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name. A William E. Deupree.
Q How old are You? A Forty-three.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and children.
Q How many children? A Seven children.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A
A One-eighth.
Q How long have you lived in the Cherokee Nation? A
Ten years.
Q Were you admitted to citizenship by the Cherokee Commission on citizenship? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated copy of an act of the Cherokee Commission on Citizenship, showing that on September 10th, 1889, certain persons were admitted to citizenship by said commission, and among them appears the name of William Deupree. Is that your name? A Yes, sir.
Q Age then given as thirty years. That was your age at the time that application was made, was it, in 1887? A Yes, sir.
THE COMMISSIONER: This is recognized as official evidence of the admission of the applicant.
Q Give me the name of your fahter? A Dr. W. J. Deupree.
Q Cherokee or white man? A White man.
Q Is he dead or alive? A He is dead.
Q How long has he been dead? A He died in 1892.
Q Give the name of your mother, please. A Charlotte B. Deupree.
Q Cherokee or white woman? A She is a Cherokee.
Q Is she dead or alive? A She is living.
Q Now, have you lived in the Cherokee Nation ever since you came here 10 years ago? A Yes, sir.
Q You have made it steadily your home? A Yes, sir
Q Give the names of your children please. A Elmer.
Q How old is that child? A Seventeen.
Q The next child? A Herbert.
Q How old is he? A Thirteen.
Q The next child? A Emma.
Q How old is she? A She will be 12 in December.
Q The next child? A Wright.
Q How old is that child? A He is ten.
Q The next child? A Bessie.

Q How old is she? A She is eight.

Q The next child? A Fred.

Q How old is he? A Five years old.

Q Thenext child? A Annie.

Q How old is she? A She is one year old.

Q Now, some of these children were admitted at the same time you were, were they not? A I don't know, sir.

Q Well, they were living at that time? A Yes, sir.

Q What is your wife's name? A Fannie L. Deupree.

Q What is your wife's age? A Thirtynine now.

1896 Roll, page 145, No. 1387, Wm. E. Dupree, Cooweescoowee District. Native Cherokee.

1896 Roll, page 301, No. 293, Fannie Dupree, Cooweescoowe District.

1896 Roll, page 145, No. 1388, Elmer Dupree, Cooweescoowee District.

1896 Roll, page 145, No. 1389, Hurbert Dupree, Cooweescoowee District.

Q What was the exact date ofyour coming to the Cherokee Nation
A It was the 16th of December, 1900.

1896 Roll, page 145, No. 1390, Emma Dupree, Cooweescoowee District/

189 Roll, page 145, No. 1391, Wright Dupree, Cooweescoowee District.

Q Can you give the exact dates of the birth of all these children? A Elmer, born [illegible] 24th of October, 1883; Herbert was born 2nd of April, 1887; Emma was born 12thof December, 1888, Wright was born the 10thof October 1890; Bessie was born in 1892, May 26th, and the balance born since.

1896 Roll, page 145, No. 1392, Bessie Dupree, Cooweescoowee District.

1896 Roll, page 145, No. 1393, Fred Dupree, Cooweescoowee District.

Q Now, your application for admission was made October 5th, 1887, wasn't it? A Yes, sir.

Q Which ones of those children were born since you applied in October, 1887? Was Herbert born then? A He is thirteen years old; he was born April 2nd, 1885, I believe, and Emma was born in 1887. No, let's see, she was born 1888.

Q Then Emma is included among these children since you were admitted? A Yes, sir.

Q You only moved here ten years ago? A Yes, sir.

THE COMMISSIONER; The applicant applies for the enrollment of himself, his wife and seven children. He is shown to have been admitted to Cherokee citizenship in 1889. He has lived in the Cherokee Nation for ten years. He is identified on the roll of 1896, and he will be listed now for enrollment as a Cherokee by blood. His wife is identified with him on the roll of 1896, but she is not included with him in terms in the act of admission, and the application for her enrollment will be listed at this time upon a white card for further consideration.

It appears that two of the children, Elmer and Herbert, two elder children, were born before the applicant applied for admission to Cherokee citizenship. They are identified with him on the roll of 1896. Their application will be listed at present upon a white card for further consideration. The same course will be taken with regard to the application for the enrollment of the Child Emma and the child Wright, who are identified on the roll of 1896 as it is desired to consider the questions of law which naturally aries in connection with these cases, in view of the differences of date between the application and the admission and the time when the applicant moved into the Cherokee Nation.

As for the three younger children, Bessie, Fred and Annie, Bessie and Fred are identified on the roll of 1896 with their father and mother, and they will be listed for enrollment now as Cherokees by blood, and the same course will be pursued in regard to Annie when the Commission is supplied with a proper certificate of her birth.

The applicant is enjoined to supply the Commission with a copy of his document of admission.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm S. Meehan

Subscribed and sworn to before me this 5th day of October A. D. 1900.

Commissioner.

D403

"R"

D 403

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., March 1, 1902.

In the matter of the application of Fanny L. Dupree, for the enrollment of herself and her children Elmer, Herbert, Ella and Wright Dupree, as citizens of the Cherokee Nation:

Appearances:
Mellette & Smith, Vinita, I. T., attorneys for applicants;
W. W. Hastings, for the Cherokee Nation.

--The applicants, and their attorneys, were notified by registered letter on February 10, 1902, that the application of Fanny L. Dupree, for the enrollment of herself and children as citizens of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 25th day of February, 1902.

Receipt was acknowledged of the Commission's letter, and on said day applicants appeared by their attorneys Mellette & Smith, and by agreement with the representative of the Cherokee Nation present, the same was continued until the 1st day of March, 1902.

The same being this day , to-wit: the 1st day of March, 1902, called, applicants are present by their attorneys Mellette & Smith.

WILLIAM DUPREE, being sworn and examined, testified as follows:

Examined by Mr. Smith:

Q State your name ? A William E. Dupree.
Q What is your post office ? A Vinita, I. T.
Q Mr. Dupree you were requested to furnish a certificate of your marriage to your wife Fanny L. I will ask you to state what that paper is ? (Handing witness a paper).
A That's a copy of my marriage license I got in Texas, and the return of it to the Clerk.
Q Was Miss F. L. Wright, as shown in this certificate, is she your present wife ? A Yes sir.
Q Is the "F" for Fanny, is that her name ? A Yes sir.

The Commission: There is offered in evidence a certified copy of the marriage license issued by John T. Craddock, Clerk of the County Court, County of Wood, State of Texas, on the 10th day of January, 1883, authorizing the marriage of W. E. Dupree to Miss F. L. Wright, and a certificate showing that they were united in matrimony on the 11th day of January, 1883 by H. Y. Lindley, Minister of the Gospel.

Examined by Mr. Smith:
Q Mr. Dupree was the preacher's name Lindley ? A No sir.
Q What was it ? A Lively.
Q You think that was a clerical error ? A Yes sir, clearly.
Q Mr. Dupree, I believe you were also required to furnish proof of the birth of your youngest child, have you ever gotten that ?
A I think I handed it to the Commission when I was here. Is that stated in the subpoena ?
Q No it was stated in the summing up of the testimony. When did you hand it to the Commission, after you gave testimony or before ?
A I handed it to them as I walked out.

The Commission: Upon an examination of the records of the Commission it is found that the affidavit referred to has been filed and made a part of the record in the matter of the application of William E. Dupree, for the enrollment of himself and his children Bessie, Fred and Annie Dupree case No. 3354.

By the Commission:

Q Mr. Dupree how do you spell your name ? A I used to spell it, in Texas, Deu, we changed it to Dupree.
Q Is that your name now ? A Yes sir.
Q Dupree ? A Yes sir.
Q How do you desire to be listed for enrollment; under what name; how do you want it spelled ? A Dupree.

By Mr. Smith:

Q Mr. Dupree, I notice in the record of your testimony given before the Commission at Vinita on the 24th day of September, 1900, that it appears that you stated that you came to the Cherokee Nation in 1900. Is that correct or incorrect ?
A It is incorrect. I came in 1890.
Q Do you remember what time in 1890 ? A December 16.
Q When did you first come to the Cherokee Nation after you were admitted ? A I came on the 3rd day of July, 1890.
Q Who came with you, if anyone. A My father, Dr. W. J. Dupree and Dr. A. M. Clinkscales.
Q Is Dr. Clinkscales related to you ? A Brother-in-law.
Q What was his wife's name ? A Annie A. Clinkscales I think.
Q At that time Mr. Dupree what children did you have ?
A Why I had Elmer, Herbert and Emma.
Q When was Wright born ? A He was born the 8th of October, 1890, that same year.
Q What were you doing in the Cherokee Nation at that time ?
A I was prospecting for a home.
Q Where did you go to ? A To Vinita.
Q What did you do ? A I hired a rig and drove around the country some.
Q What did you drive around the country for ?
A I was looking out a location for a permanent settlement, you know.
Q The three older of your children were born then ? A Yes sir.
Q How old was the oldest one at that time ? A He was born the 24th of October, 1883, that would make him six years and seven the coming fall.
Q He was six years old then ? A Yes sir.
Q That's the oldest ? A Yes sir.
Q Were all of your children minors at that time ? A Yes sir.
Q All minors at the time you were admitted to citizenship ?
A Yes sir.
Q That's those three ? A Yes sir.
Q And the child Wright was born in October, 1890 ? A Yes sir.
Q What was your intention in July, 1890, with reference to making the Cherokee Nation your permanent home ? A Why it was very good.
Q State whether you had made up your mind to do that or not ?
A Yes sir.
Q When you went back from that trip you spoke of to Texas, what did you do there ? Did you own any property down there ?
A Yes sir, I had a farm.
Q What did you do with it ? A I offered it for sale. I offered to trade or sell it so that I could get here. I wasn't able to move without it.
Q Did you sell your property ? A Yes sir.

Examined by Mr. Hastings:

Q When did you move to the Cherokee Nation permanently ?
A On the 16th of December, 1890.
Q Have you lived here since that time ? A Yes sir.

Examined by Mr. Smith:

Q Do you know why the children were not put in the application for readmission at the same time you were ?
A I didn't think it was necessary. I thought they would inherit it. I thought if I had a right they would have. I had been told that.

DR. A. M. CLINKSCALES, being sworn and examined, testified as follows:

Examined by Mr. Smith:

Q State your name Doctor ? A Albert M. Clinkscales.
Q Where do you reside ? A Vinita.
Q Are you a citizen of the Cherokee Nation ? A I am.
Q Where did you reside before you became a citizen of the Cherokee Nation ? A Herbert City, Texas.
Q Do you know the applicant in this case, the wife of William Dupree, and the four children ? A I do.
Q What is the name of the applicant ? A William E. Dupree.
Q Are you acquainted with the members of his family, Dr., the children ? A I am.
Q Do you remember or x not, anything about the time Mr. Dupree was admitted to citizenship in the Cherokee Nation ?
A I do, yes sir.
Q Did you have anything to do with that ? A I did. Myself and Mrs. Dupree came here in 1889 before the Council when she and her four children were admitted in the fall of 1889.
Q With regard to his children Elmer, Herbert and Emma, do you know whether they were born at the time he was re-admitted ?
A They were.
Q How old was the oldest one of these children ?
A His first boy, I think, was born in 1883. In fact I know Elmer was born in 1883. There is about two years difference between them.
Q When was Wright born ? A Some time in 1890.
Q You were here in 1889 at the time this act of re-admission was passed by the Cherokee Council ? A Yes sir.
Q When were you next in the Cherokee Nation after that ?
A Dr. Dupree, Mr. Gray and wife, W. E. Dupree and myself all came here in July, 1890. Myself and Mr. Gray bought property at that time. Mr. Dupree was here prospectively.
Q You may state, if you know, whether he made any inquiries with regard to property in the Cherokee Nation at that time.
A He did. He looked at several places with a view to coming to the Indian Territory.
Q Do you know of your personAl knowledge why he didn't buy at the sametime you did ?
A He was a man of limited circumstances and wasn't able to buy until he disposed of his property in Texas.
Q Did he dispose of that ? A Yes sir.
Q About how long after you were here in July, 1890, was it before you knew of his making any negotiations for the sale of his property ? A He advertised his place for sale right away as soon as he went back home.
Q Did he sell it finally ? A Sold it along in the fall, yes sir. X It was the understanding when we went back, we went together, that he was going to move to the Territory as soon as he could make his arrangements.
Q He did move the following December ? A Yes sir.

Q The eldest child of Mr. Dupree at the time the act of readmission was passed, what was the age of the oldest of the children ?

Mr. Hastings: If you will excuse me, I will admit the ages of the children.

Mr. Smith: It is here in the record--

Mr. Hastings: There aint anybody disputing their age.

Mr. Smith: It is a vital question to this case.

Witness: He was born in 1883. Mr. Dupree was re-admitted in 1889. As to the children, I will state that I was here at the time with Mrs. Dupree, and we didn't think it was necessary, at that time, to have the children entered, he being the head of a family, we thought it wouldn't be necessary.

Q Mrs. Dupree and all her children went in as it appears from the record ? A We thought that the father being the head of a family, they went with him.

Examined by Mr. Hastings:

Q You are certain that the Cherokee Council admitted these people ?
A Yes sir.

Q You are as positive of that as you are of any other proposition in your testimony ? A Yes sir.

Q You were there at the time ? A Yes sir.

Q You know that it passed both houses and was signed by the Chief ? A Yes sir.

Q You were there when it passed both houses ? A Yes sir.

Q And was signed by the Chief ? A Yes sir. I didn't see it but I was assured by Hoolie Bell, who was a Senator, that it had passed.

Q That was this man here ? A Yes sir.

Q Now Doctor, I want to show you how a man's memory may be at fault. Dr. Clinkscales can't you be mistaken ? The record here shows that this man was admitted by the Commission on Citizenship ?

Mr. Smith: I object. He may hand the record to the witness and ask him if the record is correct.

The Commission: Answer the question.

A I am not mistaken. I am confident of that. I know that his name was added with that of Mrs. Dupree.

Mr. Hastings: The representative of the Cherokee Nation refers to the record.

Mr. Smith: I desire to offer a certified copy from the authorities of the Cherokee Nation showing the act of admission of this applicant.

The Commission: There is offered in evidence by the attorney for the applicant a certified copy of a certificate issued by the Cherokee Commission on Citizenship at Tahlequah, I. T., on the 10th day of September, 1889, showing that Charlotte Dupree, and her children Emma J., William and Lelia Dupree were admitted to citizenship by said Commission in the Cherokee Nation.

Mr. Hastings: The representative of the Cherokee Nation desires to have reference made to and a copy of the act of December 5, 1888, with reference to the time of the return of persons thereafter admitted to citizenship by this Commission.

The Commission: The attorney for the applicant and the representative of the Cherokee Nation present submit this case, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant requests and will be granted fifteen days within which to file a brief in this case, one copy with the Commission, and one copy with the representatives of the Cherokee Nation.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this March 4, 1902.

M D Green

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., May 8th, 1902.

In the matter of the application
of Fannie L. Dupree ~~for enrollment~~ et al
~~as~~ for enrollment as citizens of the
Cherokee Nation.

Cherokee D. 403.

Brief on behalf of the Cherokee Nation.

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The testimony in this case discloses the fact that William E. Dupree, the husband of Fannie L. Dupree, and the father of her children, was admitted to citizenship in the Cherokee Nation on September 10, 1889, and according to his own testimony in answer to this question: "What was the exact date of your coming to the Cherokee Nation?" answered: "It was the 16th of December, 1900", and he subsequently corrects the 1900 and testifies that it was in 1890.

Two questions present themselves to the Commission for consideration in this case. The first one is: William E. Dupree was admitted by the Commission on citizenship created under the amended act approved December 5th, 1888, a copy of which is filed in this case; and this act required that all persons admitted by the Commission should become bona fide citizens of the Cherokee Nation within one year after the date of their admission. The testimony as above observed shows that the applicant was admitted on the 10th day of September, 1889, and that he removed to the Cherokee Nation on the 16th day of December, 1890, or some three months after the expiration of one year after the date of his admission to citizenship in the Cherokee Nation. His subsequent testimony confirms this, because in answer to this question, being the first on cross-examination when he testified before the Commission on March 1st, 1902: "When did you ~~xx~~ move to the Cherokee Nation permanently?" he answered: "On the 16th of December, 1890." His testimony, as well as that of Dr. Clinkscales is to the effect that he visited the Territory some time in July prior to to his removal to the Cherokee Nation, but he did not bring his family, he did not locate permanently, he did not purchse property, but was simply on a prospecting tour, and it was not such a removal to the Cherokee Nation as contemplated by the act of December 5th, 1888, creating the Commission which admitted him to citizenship.

The second question which presents itself for consideration is whether or nat Fannie L. Dupree, who was a white woman, and who married her husband prior to his admission to citizenship, and whose name was not embraced within the judgment of the Commission admitting him, was also admitted to citizenship in the Cherokee Nation and entitled to enrollment as a citizen by intermarriage. We have discussed this question so many times in other cases pending before the Commission that we do not deem it necessary to discuss it at length here; but we desire to call the attention of the Commission to the fact that the same is insisted upon.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

W. H. M.

Cher D 403

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 13, 1902.

In the matter of the application of FANNIE L. DUPREE, for the enrollment of herself as a citizen by intermarriage, and her children, ELMER, HERBERT, EMMA and WRIGHT DUPREE, as citizens by blood, of the Cherokee Nation:

FANNIE L. DUPREE, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Fannie L. Dupree.
Q What is your post office ? A Vinita.
Q What is your age at this time ? A Forty one.
Q Are you the same Fannie L. Dupree that made application to this Commission for enrollment as an intermarried citizen of the Cherokee Nation in September, 1900 ? A Yes sir.
Q What is your husband's name ? A William E. Dupree.
Q Is he living ? A Yes sir.
Q Is he a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q When were you and he married ? A In January, 1883.
Q Where were you married ? A In Texas.
Q When did you come to the Cherokee Nation ?
A We come here in 1890.
Q Had you ever been married prior to your marriage to him ?
A No sir.
Q Had he ever been married prior to his marriage to you ?
A No sir.
Q Was Mr. Dupree admitted to citizenship after he came here in 1890, or before ? A He had been admitted before he moved here.
Q Do you know about when he was admitted ?
A I don't know exactly.
Q You were not remarried to him after you removed to the Cherokee Nation ? A No sir.
Q Have you and he lived together continuously since you were married ? A Yes sir.
Q Were you living together as husband and wife on September 1, 1902 ? A Yes sir.
Q Never been separated ? A No sir.
Q These children, Elmer, Herbert, Emma and Wright, are they all your children by your husband William E. Dupree ? A Yes sir.
Q Are these children all living at this time ? A Yes sir.
Q Have they lived with you in the Cherokee Nation since you came here in 1890 ? A Yes sir.
Q Have you lived all the time in the Cherokee Nation or Indian Territory since you came here in 1890 ? A No sir, I have never been out.
Q Where have you lived all the time, at Vinita ?
A Yes sir, two miles from Vinita.
Q I believe you stated that you didn't know when Mr. Dupree was admitted to citizenship ? A No sir, I don't remember; he was admitted at the same time with his mother and Dr. Crutchfield's family
Q Was 1890 the first time he came to the Cherokee Nation after you and he were married ?
A No sir, he came here in July before.
Q In July, 1889 ? A Yes sir.
Q What time in 1890 did you come to the Cherokee Nation ?
A In December, 1890.

Q He came here the July before that ? A Yes sir.
Q [illegible] was it ? A Yes sir. I think he was [illegible]
Q You and your children have lived in the Cherokee Nation ever since you came here in 1880 ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 21, 1902.

B P Jones
Notary Public.

D 403

Cr

Cherokee 3354.
" D 403

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William E. Dupree et al as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 24, 1900, William E. Dupree appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and minor children, Elmer, Herbert, Emma, Wright, Bessie, Fred and Annie Dupree, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on March 1, and October 13, 1902. Fannie L. Dupree, wife of the principal applicant, appeared in person and made application to this Commission for enrollment as a citizen by intermarriage of the Cherokee Nation. She has been differently classified and is, therefore, not embraced in this decision.

The evidence shows that the said William E. Dupree was married on January 11, 1883, to said Fannie L. Dupree and as a result of that marriage, the minor applicants herein were born.

The evidence further shows that on September 10, 1889, the said William E. Dupree, among others, was readmitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship, he having made application on October 5, 1887, for such readmission.

It further appears that William E., Elmer, Herbert, Emma, Wright and Bessie Dupree are identified on the 1894 Cherokee strip payment roll and on the 1896 Cherokee census roll. Fred and Fannie L. Dupree are also identified on the said 1896 census roll. Annie Dupree, having been born since the making of said roll, is identified by a birth affidavit made a part of the record herein.

An act of the Cherokee National Council, approved December 2, 1894, provides as follows:

> "Be it enacted by the National Council, That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission: Provided, That nothing in this act shall bar minors and orphans."

It further appears that the said William E. Dupree removed to the Cherokee Nation on December [illegible] and since that time has resided, with his family, in said Nation continuously, up to and including the date of their applications herein; and that by such removal and continued residence he has complied with the provisions of the act above quoted.

It is, therefore, the opinion of this Commission that William E. Dupree, Elmer Dupree, Herbert Dupree, Emma Dupree, Wright Dupree, Bessie Dupree, Fred Dupree and Annie Dupree should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Dated at Muskogee, Indian Territory,
this JUN 1 - 1903

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. July 20th 1903.

In the matter of the application for the enrollment of William E. Dupree et al as citizens by blood of the Cherokee Nation consolidating the cases of William E. Dupree et al Cherokee #3354 and Fannie L. DuPree Cherokee D 403.

Protest of the Cherokee Nation.

The Cherokee Nation respectfully protests against the decision of the Commission rendered in the above cases June 1, 1903 and asks that the record together with this decision be forwarded to the Honorable Secretary of the Interior for Review.

The testimony in this case shows that William E Dupree, the husband of Fannie L. Dupree, and the father of her children was admitted to citizenship in the Cherokee Nation on September 10, 1889, and that he removed to the Cherokee Nation on December 16th 1890.

Only one question now presents itself in this case for consideration, to wit: William E. DuPree was admitted by the Commission on Citizenship created under the amended act Approved December 5th, 1888, a copy of which act is on file in this case; and this act contained the following requirement:

> "That all persons to whom certificates of citizenship shall be issued by the decree of the Commission on citizenship created by this act, shall be required as a precedent to the delivering of the said certificates to return to and permanently locate within the limits of the Cherokee Nation, and it shall be the further duty of all persons to enroll their names, with the names of their families, if any such, at the date of their arrival within the limits of the Nation in a book to be kept for that purpose in the office of the Principal Chief, and no certificate of citizenship issued by said Commission shall entitle an applicant for admission into the Cherokee Nation for not a longer period than one year from its date, who shall fail to become a bonda fide citizen within that date." Act of December 5th 1888.

The testimony shows, and the Commission finds in its decision that the applicant moved to the Cherokee Nation on December 16th 1890. This was some three months after the expiration of one year after the date of his admission to citizenship in the Cherokee Nation; he having been admitted September 10, 1889.

The applicants testimony as well as that of Dr Clinkscales is to the effect that he visited the Territory some time in July prior to his removal to the Cherokee Nation, but he did not bring his family.

he did not locate permanently, he did not purchase property but was simply on a prospecting tour and it was not such a removal to the Cherokee Nation as was contemplated by the act of December 5th 1888, creating the Commission which admitted him to citizenship.

The act quoted by the Commission we contend has reference to persons readmitted to citizenship under former acts of the National Council and by the Commission on citizenship where no limitation was prescribed for the return of the person readmitted and that all persons readmitted by the Commission on Citizenship created under the act of December 5th 1888 were required to locate in the Cherokee Nation permanently within the prescribed one year or no rights whatever accrued to them ; The National Council had authority to readmit them and having this authority also had authority to prescribe certain conditions and in this case the conditions prescribed was that the applicant should remove to and permanently locate within the Cherokee Nation within one year after such readmission; there is no contention in this case that the applicants complied with this requirement and therefore they are not entitled to be enrolled as citizens of the Cherokee Nation.

Respectfully,

W W Hastings

Attorney for the Cherokee Nation.

C20403

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 31 1902
CHAIRMAN.

Supl to D 403

-Copy-

(Senate Bill No. 32).

An Act creating a Commission on Citizenship.

Be it enacted by the National Council: That there is hereby created a Commission on Citizenship which shall consist of three persons, who shall be elected by a joint vote of the National Council and one of whom shall be elected in like manner Chairman of the Commission, and who shall be commissioned by the Principal Chief and who shall constitute a Commission for hearing and determining all applications for Citizenship in the Cherokee Nation, heretofore made under the Act approved December 8th 1886, entitled "An Act providing for the appointment of a Commission to try and determine applications for Cherokee citizenship" that remains upon the docket of the Commission appointed under said Act, and which were not determined by it, together with those applicants mentioned in the amendment to the before named act dated Feb'y 7th 1888 whose applications have not been determined by the Commission provided for by the said act of December 8th 1886 and the amendment thereto of February 7th 1887 and May 23rd 1887, and also of all applications referred to it for adjudication by the National Council; but said Commission so created by this act is hereby expressly prohibited from re-opening or re-hearing any application for Citizenship rejected by the said Commission created under the before named act approved December 8th 1886.

Sec. 2nd. Be it further enacted that there be elected as herein before provided for the election of members of the Commission, one attorney to represent the Cherokee Nation before the Commission herein provided for and whose duties shall be the same as is prescribed in the second section of said act approved December 8, 1886, and there shall be appointed one Sheriff, one interpreter, and two clerks in the same manner and with the same conditions, as is provided in the first section of the said act of December 8th, 1886, and the act approved February 7th 1888, provided however that the interpreter shall be paid only as his services may be needed and for the time actually served.

Sec. 3. Be it further enacted that the duties of the Sheriff, interpreter and clerks herein provided for shall be the same as is prescribed and provided for respectively in sections three, four and five of the said act of December 8th 1886.

Sec. 4. All officers herein provided for shall take an oath to support the constitution and laws of the Cherokee Nation and the Commission shall organize within twenty days after their election and after giving thirty days notice in the Cherokee Advocate, the Indian Chieftain, Indian Arrow and Telephone newspapers shall proceed to hear and determine all causes herein provided for and in hearing such causes the Commission shall be governed by the conditions and requirements of the (7th) seventh, tenth and eleventh sections of the said act of December 8th 1886 and the pay of the officers of the said Commission shall be the same as is provided for in section twelve of said act.

Sec. 5. Be it further enacted, that the Commission shall through the office of the Principal Chief and not later than the second Monday in November 1889 report their proceedings in full for the information of the National Council at which time the Commission hereby created shall expire by limitation.

Sec. 6. Be it further enacted, That all persons to whom certificates of citizenship shall be issued by the decree of the Commission on Citizenship created by this act, shall be required as a condition precedent to the delivering of the said certificates to return to and permanently locate within the limits of the Cherokee Nation, and it shall be the further duty of all persons to enroll their names, with the names of their families, if any such, at the date of their arrival within the limits of the Nation in a book to be kept for that purpose in the office of the Principal Chief, and no certificate of citizenship issued by said Commission shall entitle an applicant for admission into the Cherokee Nation for not a longer period than one year from its date, who shall fail to become a bona fide citizen within that period.

Be it further enacted that sections fifteen and sixteen of the said act of December 8th, 1886, having ceased to be operative are hereby repealed.

Passed Senate Dec. 1st 1888.
Lacy Hawkins,
President of Senate.
M. Daniels,
Clk. Senate.

Concurred in by the House Dec. 4th 1888.

Robert Meigs,
Speaker of Council.
R. B. Choate,
Clk. of Council.

Reconsidered by the Senate and passed by the required two third vote

S. H. Benge,
President Senate pro Tem.
M. Daniels,
Clk. Senate.

Reconsidered by the House and passed by the required two thirds majority Dec. 5th 1888.

Robert Meigs,
Speaker of Council.
R. B. Choate,
Clk of Council.

Executive Office Cherokee Nation.
Tahlequah, Ind. Ter.

I, B. W. Alberty, assistant Executive secretary of the Cherokee Nation do hereby certify that the foregoing one and a fraction pages, is a true and correct copy from the record of laws and acts of the National Council of the Cherokee Nation, made and kept in this office, and now in my legal custody.

Given under my hand and the seal of the Cherokee Nation this the 30th day of January, 1902.

B. W. Alberty,
Assistant Executive secretary,
Cherokee Nation.
(Seal)

I, E. C. Bagwell, on my official oath as stenographer to the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and accurate copy of the original on file with the Commission, as the same was made by me.

E C Bagwell
Stenographer.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee-3354
" D-403

Muskogee, Indian Territory, July 8, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application for the enrollment of William E., Elmer, Herbert, Emma, Wright, Bessie, Fred and Annie Dupree, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in these cases. If you fail to file protest within time allowed this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. D-23

[illegible]

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee 3354,
D-403.

Muskogee, Indian Territory, November 16, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated June 1, 1903, granting the application of William E. Dupree for the enrollment of himself and his seven minor children, Elmer, Herbert, Emma, Wright, Bessie, Fred and Annie Dupree, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior, November 7, 1903.

Respectfully,

Chairman.

CHEROKEE 3954

✓D 4 [illegible]

Fannie L. Dupree

OCT 12 1907

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 24, 1900.

In the matter of the application of Willis Bettles, Jr., for the enrollment of himself as a Cherokee by intermarriage and his wife as a Cherokee by blood; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A Willis Bettles, Jr.
Q What is your age? A I am 4[illegible].
Q What district do you live in? A Delaware district.
Q What is your post office? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A By adoption.
Q For whom do you apply? A Myself and wife.
Q What is your father's name? A His name was Willis Bettles, he is dead.
Q What is the name of your mother; she dead? A Yes, sir.
Q What was her name? A Mary; they are non citizens.
Q What is the name of your wife? A Emily Jane.
Q What was her name before you married her? A Clark.
Q When did you marry? A The first of April, 1884.
Q She a citizen by blood? A Yes, sir, 1/4 Cherokee.
Q What is her age? A 54.
(The applicant presents a marriage license and marriage certificate in due form, certifying that he was married on the 1st of April, 1884, to one Mary J. Clark, a Cherokee citizen by blood.)
Q Have you been living with your wife continuously since you married her? A Yes, sir.
Q Living with her now? A Yes, sir.
Q How long have you been living in the Cherokee Nation? A I came here in the fall of 18[illegible].
Q Been living here ever since? A Yes, sir; I don't know whether her name was on the roll of 1880, she was [illegible] at that time.
Q What is the name of her father? A John Clark.
Q He living? A No, I think he is dead.
Q What is the name of her mother? A Mary Ann Clark.
Q She living? A No, sir, she is dead.
Q Are they upon the roll of 1880? A I don't know, sir.
Q When did her mother die? A She has been dead 11 years; her first name was Clark and her last name was Smith, she was married twice.
Q What was her name twenty years ago? A I reckon it must have been Smith; I came here in the fall of 18[illegible] and it was Smith.
Q You say your wife was named Clark? A Yes, sir.
Q How old is she? A 54.
Q Was she ever married before she married you? A I think she was, she wasn't lawfully married though, I don't think; she is in the audience here.
(On 1896 roll, page 444, No. 427, Emily Jane Bettles, Delaware district. Willis Bettles, Jr., on 1880 roll, page 5[illegible], No. 6[illegible], Willis Betles, Jr., Delaware district.)
Mr. W.W. Hastings, representative of the Cherokee Nation: Where was your wife in 1880? A She was out on a little place of her own on Russell Creek.
Q With whom was she living at that time? A Blackwell, I think; they were not lawfully married.
Q How long did she live with Blackwell? A I don't know.
Q About how long? A I have no idea.
Q What degree of blood does she claim? A 1/4.

Emily Bettles, sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A My name is Willy Battles.

Q What was your name before you married Mr. Battles? A My name was Willy Clark.

Q Was that your name in 1880, 20 years ago? A Yes, sir.

Q Is your name on the roll of 1880? A I don't really think it is.

Q Were you married in 1880 to anybody? A No, sir, I have never been married, but I was living on Russell Creek at the time and I was sick with the chills; I have always lived in this country.

Q Were you born in this country? A I was born in Saline dist.

Q What was your mother's name? A Mary Ann Clark.

Q When did she die? A She has been dead about 11 years.

Q She was a Cherokee citizen? A She was a Cherokee by blood.

Q Her name is on the roll of 1880? A I don't know, I was living right in the neighborhood, but I have an older sister can answer that question.

Q What was your mother's name before she married Clark? A Nave.

Q What was your father's name? A My father's name was John Clark.

Q Was he a citizen or a white man? A He was a white man.

Mr. Hastings: In what district was your mother living in 1880? A In Delaware District.

Q 20 years ago? A Yes, sir.

Q Was her name Smith or Clark then? A She went by the name of Smith, her last husband was Smith.

Q Do you know when she married Smith? A I can't tell you, I had rather be excused on figures because I haven't got any education.

Q Did you ever live in the State of Kansas? A What was I going to live in the State of Kansas for?

Q Did you ever live there? A No, sir.

Q Did you ever live outside of the Cherokee Nation? A I lived as far as Russell Creek.

Q Were you born in the Cherokee Nation? A Yes, sir, I was born in the Cherokee Nation.

Q I want to know if you have ever lived outside the Cherokee Nation? A No, sir.

Q Have you ever resided outside the Cherokee Nation, was your post office ever outside the Cherokee Nation? A My post office is here in Vinita.

Q You were married in the Cherokee Nation? A Yes, sir.

Q Your mother died in the Cherokee Nation? A Yes, sir.

Q Your father? A I haven't got much information about him, my father went to California and died when I was quite a small girl.

Q You didn't go with him? A Yes, sir, how could I go with him; he left me with my mother.

Q You lived with another man before you married this man? A Yes, sir, but I never was married to him.

Q What was his name? A Blackwell.

Q His first name? A John Blackwell.

Q How long did you live with him? A About four years.

Q You lived with him as husband and wife? A Yes, sir.

Q He held you out to the community as his wife? A Yes, sir.

Q And you recognized him as your husband? A Yes, sir.

Q Do you remember when that was? A That was along in 1880.

Q You afterwards separated, did you? A Yes, sir.

Q What was the cause of the separation? A Well, it was simply this reason, because he agreed to marry me according to our law and he wouldn't do it, and I supposed he must have had another wife the reason why he wouldn't do it, and I just naturally got up and pulled out, and besides he was ill to me, he mistreated me, he was a very poor provider, and I got up and came from Russell Creek to the neighborhood where my people was.

Commissioner Needles: The name of Willie Battles, Jr., ap-

Willis Battles, Jr., - 3.

pears upon the census roll of 1880 as well as the name of his wife, Emily. He presents a marriage license and certificate certifying that he was married to one Emily J. Clark, a citizen by blood, in the year 1884. The name of said Emily J. Clark does not appear upon the authenticated roll of 1880, neither does the name of her father or mother appear thereon. No satisfactory proof has been made as to her xxxxxxx citizenship, and no divorce has been proven as to divorcement of his wife Emily J. Clark from her husband, one Blackwall, to whom she swears she wasn't married, but lived with for four years as man and wife. Consequently, final judgment as to the enrollment of the said Willis Battles, Jr., as an intermarried citizen, and of his wife, Emily J., as a citizen by blood, will be suspended, and their names will be placed upon a doubtful card. When final judgment is rendered as to the citizenship of the applicants, they will be notified by mail.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C Jones

Subscribed and sworn to before me this the 24th of September, 1900.

Commissioner.

D. 404

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 13 1901.
ACTING CHAIRMAN.

SUPPLEMENTAL TESTIMONY.

D. #404.
D. #467.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., FEBRUARY 14th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of WILLIS BATTLES, D.#404, and RUTH LYNCH, D.#467, as citizens of the Cherokee Nation;

RUTH LYNCH, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Ruth Lynch.
Q How old are you? A 48.
Q What is your post office? A Vinita.
Q In what district do you live? A Delaware.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know one Emily J. Battles? A Yes, sir.
Q Is she a wife of Willis Battles, Jr.? A Yes, sir.
Q What relationship are you to this Emily Battles? A Half sister.

EXAMINATION BY W. P. THOMPSON, of Vinita, I. T., Attorney for Applicants:

Q You say you are a half sister of Emily J. Battles? A Yes, sir.
Q Do you know where Emily J. Battles was in the year of 1880, at the time the census was taken in 1880? A She lived in the bend of Russell Creek.
Q In what district? A Delaware district, I think.
Q What Nation? A Cherokee.
Q Delaware district, Cherokee Nation? A Yes, sir.
Did you see her during the time the census was being taken by the census takers? A Yes, sir.
Q Where? A There at her place where she lived.
Q State the circumstance; did you go to her home? A Yes, sir
Q State the circumstance? A She was sick; she lived right down in the bottom where the creek and river come together and she took the chills and I had my husband to hitch up the wagon and we went up there and got her and she staid with us until she married Battles.
Q How long did she live at your house? A About four years.
Q I will ask you if the census takers had been around to your house before you went up there and got her? A Yes, sir.
Q You say you are a half sister of Mrs. Battles'? A Yes, sir.
Q By the same mother or same father? A Same mother.
Q The same mother as Emily Battles? A Yes, sir.
Q Are you on the roll of 1880? A I don't think I am; I have got that to prove.
Q Have you ever been before the Commission? A Yes, sir.
Q You do not know whether you are on the roll of 1880 or not?
A No, sir, I don't.
Q You don't know what action was taken in your case? A No, sir; I just went before the Commission and they never asked me anything.
Q By Com'r Breckinridge: Where did you apply? A Vinita.
Q By Mr. Thompson: Was the census taker at your house in 1880?
A He might have been; in that year my name was Buffington.
Q What is your given name? A Ruth.
Q Then your name was Ruth Buffington in 1880? A Yes, sir.

BY COM'R BRECKINRIDGE:

Q You say the census taker was at your house? A Yes, sir.
Q And you give your name in did you? A Yes, sir.

By MR. Thompson:

Q What was your mother's maiden name? A Her maiden name was Mary Ann Nave, at the time it was Mary Ann Smith; she was married twice, this girl's father was Clark, Emily J. Clark was her maiden name.

BY COM'R BRECKINRIDGE:

Q What district were you living in in 1880? A Delaware.

BY MR. THOMPSON:

Q During the time of the taking of the census you went up to get Emily J. Battles, whose name at that time was Emily J. Clark? A Emily J. Clard.
Q Was she ever married before she married Battles? A No, sir.

BY COM'R BRECKINRIDGE:
Q Your sister, Emily, did she live with a man named Blackwell?
A Yes, sir, but they were never married.
Q How long did she live with him? A About a year.
Q Was there any children from that marriage that you know of?
A No, sir.
Q How near was she living to you at the time she was living with this man, Blackwell? A About 28 miles as near as I can guess at it.
Q Your father died in California didn't he? A No, sir, my father is not dead.
Q Your half sister's father died in California? A Yes, sir.
Q Emily's father? A Yes, sir.
Q Was he a Cherokee or white man? A He was a white man.
Q You and your sister had the same mother? A Yes, sir.
Q And you claim that mother was a Cherokee? A My mother is a Cherokee.

BY W. W. HASTINGS, Cherokee Representative:

Q Did your sister, Emily, ever go to California? A No, sir.
Q Is your sister present here now? A Yes, sir.
Q What is your present name? A Lynch.
Q What is your husband's name? A Anderson Lynch.
Q Colored man? A Yes, sir, we have been parted five years. I life in Vinita, having been living there five years.
Q What was your name in 1880? A Buffington.
Q Who was your husband then? A Alex.
Q Was he a colored man? A Yes, sir, he was part.
Q You did not tell that at Vinita, that your name had been Buffington? A Yes, sir.

BY MR. THOMPSON:

Q Which one were you married to in 1880, Lynch or Buffington?
A Buffington, I married him when I was 22 years old

Tribal rolls of citizens of the Cherokee Nation examined and witness' and her former husband's names found thereon as follows:

1880 Freedmen Roll; page 231, #381, Ruth Buffington, Delaware district, adopted Colored.

1880 Freedmen Roll; page 231, #380, Alex Buffington, Delaware district. (With this Note:) "Alex Buffington same as Gus Buffington"

BY COM'R BRECKINRIDGE:

Q This man Blackwell that your sister lived with, what was he, white man? A No, sir, he was a Mexican.

BY MR. HASTINGS:

Q Has your sister lived in the Cherokee Nation ever since 1880?
A Yes, sir, and before.
Q Why are you so positive that she was here when the rollswere taken? A She was bound to be because she had a home here.
Q You remember when the rolls of 1880 were taken then? A Yes, sir, I know the rolls was taken in 1880.
Q Do you know who took the rolls? A No, sir.
Q You lived right by the man? A Yes, but I can't remember.
Q Is Joe Thompson a neighbor of yours? A Yes, sir.
Q You don't remember whether he took them or not? A No, sir, I don't know.
Q What was your mother:s maiden name? A Nave. Mary Ann Nave.
Q Was she a Cherokee or colored person? A She was a Cherokee; she was a, John Ross and her mother were brothers and sister.

BY MR. THOMPSON:
Q Did she have any other sister? A Had one.
Q Who was she? A Nancy Riley.
Q What is her name now? A Nancy Riley.
Q You say she was a sister of your mother? A Yes, sir.
Q Do you know whether she was a full sister? A She was a twin.
Q Where does Nancy Rile y live? A Tahlequah.

MR. THOMPSON:--I desire to cite Sections 688 and 689, page 345, of the compiled laws of the Cherokee Nation for the year 1892.

EMILY J. BATTLES, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name please? A My name is Emily J. Battles.
Q You applied to the Commission for enrollment at Vinita on the 24th of September, did you? A Yes, sir.

BY MR. THOMPSON:

Q This man Blackwell that you lived with; was there any marriage ceremony ever performed between you and Blackwell by any Judge or Clerk of the Cherokee Nation or any ordained Minister? A No, sir, they never was.
Q Was any marriage contract in writing between you two parties signed up by you two in the presents of witnesses? A There never was on top of earth.

Q Did you two ever, in the presents of a Judge, Clerk or Minister officiating or attending witnesses acknowledge each other as husband and wife? A No, sir.

BY COM'R BRECKINRIDGE:

Q You don't remember how long you lived with this man Blackwell?
A I would tell you my friend I could not recollect rightly.
Q You testified in your former evidence that you held each other out to the world as husband and wife; you lived with this man as his wife? A In one sense we was but the people didnot treat us as that and they could not look at it that way.
Q You went by his name? A I guess some people called me by his name.

BY MR. W. W. HASTINGS:

Q You and him agreed to live together as man and wife before you went to doing it? A We might agreed to but never had it in writig
Q You never had any writing or anything to that effect, but you agreed to do it and held each other out to the community as man and wife? A The community did not know anything about it.
Q There was not much community there was there? A No, sir.

Com'r Breckinridge:--Copies of this testimony will be filed with Case D. #404, and also with the case of Ruth Lynch, D.#487, and notes will be made on the cards calling attention to this testimony.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 15th day of February, 1901.

Commissioner.

Supl.-C.D.#404.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the enrollment of WILLIS BATTLES, JR., ET AL., as citizens of the Cherokee Nation:

The applicant was notified by registered letter february 10, 1902, that his application for the enrollment of himself and wife as citizens of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 26th day of February, 1902. On said date the applicant appeared by his attorney, W. P. Thompson, and by agreement between the attorney for the applicant and representative of the Cherokee Nation, the case was continued until the 28th day of February, 1902. This case being called this day, to-wit: 28th day of February, 1902, the applicant appears by his attorney W. P. Thompson.

Mr. W. W. Hastings, Cherokee representative, present.

Commission of Mr. Thompson: Any statement you desire to make relative to this case? A Nothing further, sir, than to submit the case with the privilege of filing a brief with ten days.

Commission: The attorney for the applicant and representative of the Cherokee Nation present submit the case to the Commission and the same is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

The attorney for the applicants requests the privilege of filing a brief in this case, one copy with the representative of the Cherokee Nation and one copy with the Commission. He will be given ten days in which to supply the same.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in the above case on this day, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

JORosson

Subscribed and sworn to before me this March 3, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

MuskogeeI. T. April 10th 1902.

Cherokee D 404.

In the matter of the application of Willis Battles Jr for the enrollment of himself ~~in~~ as a citizen of the Cherokee nation by intermarriage and his wife as a citizen of the Cherokee nation by blood.

……

Brief of the Cherokee Nation.

……

This is a rather peculiar case and makes one hesitate while reading the testimony, and say he is not satisfied. Willis Battles Jr claims as a citizen by intermarriage and claims that he was married to his wife on the first day of April 1884 but the testimony discloses the fact that his wife had formerly entered into a common law marriage with one Blackwell with whom she had lived for a period of about four years, they recognizing each other as husband and wife and they being so recognized by the community in which they lived. This we think was such a common law marriage as would have necessitated a divorce between the parties before leaving the woman free to contract a legal marriage with the applicant and for that reason we do not think Willis Battles Jr should be enrolled as a citizen of the Cherokee nation by intermarriage.

The second reason, and one which applies clearly to the wife why he should not be enrolled is that there is no satisfying testimony that his wife is a citizen of the Cherokee nation by blood. Upon this proposition the testimony is very uncertain. She of course swears that she is a Cherokeeby blood and swears that she was born and always livedin the Cherokee nation but you will notice upon cross examination she evades nearly all the questions asked her either by answering them indirectly or asking the question over itself. Again it will be noticed that she claims to have derived her Cherokee blood through her mother and neither her name appears upon the 1880 roll nor the name of hermother. Rather peculiar indeed that two families of the same blood should be missed by the census takers in that year and no effort made to get their namesplaced upon that roll although a payment was made to those whose names appear upon that roll. There is some deceiving testimony of Ruth Lynch which merits rather close inspection; she testifies that she and the wife of applicant, Emily J. Battles are half sisters, and strange to say it is not developed who the father of Ruth Lynch was. True she says that her mother was a Cherokee and that she and Emily Battles had the same mother but this woman Ruth Lynch has been the wife of two colored men, and she seems to be separated from the second one at this time and from her own testimony she does not commend herslef as being a very reputable witness and it is all together probabale that her name appears upon the 1880 roll and that she derived her Cherokee blood from her father who was not the father of Emily J. Battles and just why the fact as to who her father is was not developed is not quite clear.. The question of citizenship is ~~xxxx~~ very important one and one about which the commission should feel satisfied. The post office addressof the applicant was given as Vinita Indian Territory; she applied September 4th 1900 and since that date the Commission has spent two months in the town of Vinita, upon any day during which time testimony of old reputable citizens of the Cherokee Nation who live near Vinita could have been introduced to prove if it be a fact that this woman Emily J. Battles was a Cheroke by blood and that she has been a continuous resident of the Cherokee Nation.

We submit that it never was the intention of Congress to too lightly set asid the authenticated roll of 1880. Congress thought there should be some starting point and designated the authenticated roll of 1880 and as above observed neither the name of this woman, Emily J. Battles nor that of her mother appears upon the roll of 1880 and we do not believe the testimony filed in this case is sufficieently convincing, taking the character of the applicant and the witness into consideration. If the applicant had been a continuous resident and a recognized citizen of the Cherokee Nation the necessary proof without expense could have been easily obtained while at Vinita.

We submit that neither she nor her husband upon the proof are entitld to be enrolled as citizens of the CherokeeNation.. It is not a circumstance tending to show that a mans wife was a Cherokee by blood because a marriage license was issued to a whiteman tommarry her because none of the clerks of the several districts had any citizenship records whatever as is well known to the Commission the 1880 roll was not copied or printed until 1896 and a marriage license was issued by the clerk upon the representation of the man applying for them that his wife was a recognized citizen of the Cherokee Nation and upon his payment of the fee required.

Respectfully submitted,

W W Hastings

Attorney for the Cherokee Nation.

In the matter of the application of WILLIS BATTLES, JR., for the enrollment of himself as a citizen by intermarriage, and his wife EMILY J. BATTLES, as a citizen by blood, of the Cherokee Nation:

WILLIS BATTLES, JR., being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Willis Battles, Jr.
Q What is your age at this time ? A Forty seven.
Q What is your post office address? A Vinita.
Q You are the same Willis Battles, Jr., that applied to the Commission in September, 1900, for enrollment as an intermarried citizen of the Cherokee Nation ? A Yes sir.
Q What is your wife's name ? A Emily J. Battles.
Q Is she living at this time ? A Yes, sir.
Q Have you been living together as husband and wife ever since you were married? A Yes sir.
Q When were you married to Emily J.? A The first day of April, I think it was, in 1884. I have a copy of my license if you wish to see it.
Q Were you ever married before you married Emily J. ? A No sir.
Q Is she your first wife ? A Yes sir.
Q Was she ever married before she married you ?
A She says she was not.
Q Have you and your wife Emily J., lived together from the date of your marriage up to the present time ? A Yes sir, and are still living together.
Q You have never been separated ? A No sir.
Q Were you living together on the first day of September, 1902, as husband and wife ? A Yes sir.
Q How long have you lived in the Cherokee Nation ?
A Ever since 1881.
Q Has your wife lived in the Cherokee Nation with you all that time ? A Yes sir.

M. D. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is a accurate transcript of his stenographic notes thereof.

M D Bagwell

Subscribed and sworn to before me this November 24, 1902.

Notary Public

Cher
Supp'l to # D 404

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 20, 1902.

In the matter of the application of WILLIS BATTLES, JR., for the enrollment of himself as a citizen by intermarriage, and his wife, EMILY J. BATTLES, as a citizen by blood, of the Cherokee Nation:

WILLIS BATTLES, JR., being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Willis Battles, Jr.
Q What is your age Mr. Battles ? A Forty seven.
Q What is your post office address ? A Vinita.
Q You are the same Willis Battles, Jr., that applied to the Commission in September, 1900, for enrollment as an intermarried citizen of the Cherokee Nation ? A Yes sir.
Q What is your wife's name ? A Emily J. Battles.
Q Is she living at this time ? A Yes sir.
Q Have you been living together as husband and wife ever since you were married ? A Yes sir.
Q When were you married to Emily J ? A The first day of April, I think it was, in 1884. I have a copy of my license if you wish to see it.
Q Were you ever married before you married Emily J ? A No sir.
Q She is your first wife ? A Yes sir.
Q Was she ever married before she married you ?
A She says she was not.
Q Have you and your wife Emily J., lived together from the date of your marriage up to the present time ? A Yes sir, and are still living together.
Q You have never been separated ? A No sir.
Q Were you living together on the first day of September, 1902, as husband and wife ? A Yes sir.
Q How long have you lived in the Cherokee Nation ?
A Ever since 1884.
Q Has your wife lived in the Cherokee Nation with you all that time ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 24, 1902.

B C Jones
Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 11 1902

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Cherokee D 404

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, IND. TER., OCT. 10, 1902.

In the matter of the application of Willis Battles, Jr., for the enrollment of himself as a citizen, by intermarriage, and for the enrollment of his wife as a citizen, by blood, of the Cherokee Nation:

SUPPLEMENTAL STATEMENT.

An examination of the tribal rolls of the Cherokee Nation, now in possession of the Commission, shows that the applicant, Emily J. Battles, is identified thereon as follows:

1886 pay roll, Delaware District, #249, as Emily Battles;
1894 Strip payment roll, p. 359, Delaware District, #332.

It is ordered that copies of this statement be made a part of the record in this case.

Commissioner.

Cher
Supp'l to D 404

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., February 10, 1903

In the matter of the application of WILLIS BATTLES, JR., for the enrollment of himself as a citizen by intermarriage, and his wife EMILY J. BATTLES, as a citizen by blood, of the Cherokee Nation:

LUCIEN B. BELL, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Lucien B. Bell.
Q Your age and residence ? A I am sixty five years old, and I live here in Vinita.
Q You are a citizen of the Cherokee Nation ?
A Yes sir, I am a citizen of the Cherokee Nation.
Q Do you know Emily J. Battles ? A I have known her, to know her, since '80 or '81.
Q She is the wife of Willis Battles ? A I presume so, I don't know that to be a fact, I met them here this morning.
Q Did you know the parents of Emily J. Battles ?
A I knew her mother, and have an indistinct recollection of her father.
Q What was her mother's name ? A We called her Mrs. Clark.
Q Was her mother ever known as Smith ? A She married a man named Smith, Billy Smith, and they had one child.
Q Was Mrs. Smith, or Mrs. Clark, a Cherokee by blood ?
A Mrs. Clark was a Cherokee by blood, and you will find her name on the roll of 1852.
Q You know she was recognized ? A Oh yes, she was a niece of our chief.
Q Do you know how much Cherokee blood she had ? A No sir.
Q Was John Clark a white man ? A He was a white man, as I understand it.
Q John Clark was the father of Emily, was he ?
A No, I don't know; a fellow has to take the woman's word for that.
Q Has this Emily always been recognized as a citizen ?
A Well, I can't answer that absolutely, you see I didn't see her for a number of years up to 1880, and they moved over here, and did for a long while live over here three or four miles from here.
Q How long has she been living in the Cherokee Nation to your knowledge ? A If she has been living here since the first time I saw her it must have been something like twenty years.
Q She has been living here in the Nation for twenty years ?
A So far as I know; I didn't see her often.
Q Do you know her husband, Willis Battles ?
A I have only met him here as Battles.
Q Is her mother dead ? A That's my understanding.
Q Her father also ? A Well, her father left here, and I don't know as anybody knows what became of him, I don't.

MARGARET BRACKETT, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Margaret Brackett.
Q How old are you ? A Seventy five.
Q What is your post office address ? A Vinita.

Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Cherokee by blood, are you ? A Cherokee by blood.
Q Do you know Emily J. Battles ? A Yes sir.
Q How long have you known her ? A Well, she's been living here for twenty years, and then I have known of her before.
Q Living where ? A Out here about two miles from town.
Q Did you know her parents ? A I knew her mother.
Q What was her name ? A Mary Clark, and after that Mary Smith.
Q How long did you know her ? A All her life I reckon, I knew her when she was a young woman.
Q Was she a Cherokee by blood ? A Yes sir.
Q How much blood did d she have ? A I can't tell you that, she was a neice of Chief John Ross. I never heard her blood disputed.
Q You never heard her x citizenship disputed ? A I never did.
Q When did she die ? A I can't tell you exactly when she died, I don't remember very well.
Q A long time ago was it ? A A agood while, ten or fifteen years.
Q Did you know Emily's father, John Clark ? A Yes sir.
Q Was he a white man ? A Yes sir.
Q Do you know where he went to when he xx left the Cherokee Nation ?
A He went to California.
Q He died there ? A I don't know whether he did or not.
Q Did you ever hear the citizenship of Emily Battles disputed in any way ? A I never did.
Q You have known her for twenty years ? A Yes sir.
Q Has she been in the Cherokee Nation all the time ?
A Yes sir, right on one place.
Q Do you know her husband Willis Battles ? A Yes sir.
Q Do you know when they were married ? A About nineteen or twenty years.
Q Have they been living in the Cherokee Nation ever since ?
A Yes sir, been living right there on one place.
Q What district did Mrs. Clark, or Mrs. Smith, live in, the mother of Emily ? A She lived in Saline a while and she lived in Delaware District.
Q Where was she living at the time of her death ?
A Delaware District, I think it was.
Q In what district has Emily Battles been living ?
A Delaware.
Q All the time you have known her ? A All the time since she married Mr. Battles, and before too, I expect. I have known her that long.

Examined by W. W. Hastings:

Q About what time did her mother die ? A About twelve or thirteen years, I don't remember exactly.
Q Since 1880 ? A Yes sir, I think it is.
Q Where did she die ? A She died over on Grand River.
Q Where was this applicant, Emily, living when the war came up ?
A I don't know, I don't remember.
Q Did you know her before the war ? A This here Emily ?
Q Yes ? A Yes sir, she was a girl then, her mother was living in Saline, and I lived at Fort Gibson.
Q You lived quite a distance away ? A Yes sir.
Q When did you first see Emily after the war ?
A I seen her right there at Little Cabin.
Q About when ? A About twenty years ago.
Q Do you know where she was, say from the war time up till, say twenty years ago ? A No, you must know the war time diveded us all, I went south and she went north.

Q I want to get her residence before 1883, now say, where was she living before 1883; you know there is about sixteen or seventeen years after the war ? You don't know ?
A No, I don't know.

By the Commission:

Q Did Emily Battles have any sisters ? A Yes sir, she's got two sisters.
Q What are their names ? A One is named Cynthia, and the other one Ruth.
Q Cynthia Lynch and Ruth Lynch, are these daughters also of Mrs. Clark ? A Yes sir.
Q Did they all have the same father ? A No sir, there's two Clarks, Emily Clark and Cynthia Clark and the other one is Ruth Smith. She was the daughter of her mother's second husband. The same mother, but different fathers.
Q These three girls have all the same mother ? A Yes sir.
Q It is Mary Clark, or Mary Smith ? A Yes sir.

Examined by W. W. Hastings:

Q Did she and Clark separate, or did she go with Clark to California ? A I think Mr. Clark went with himself to California. He left his wife here like a great many others did.
Q His family never went to California ? A No sir, they did not.

MILLIE FRYE, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Millie Frye.
Q How old are you ? A Sixty five.
Q Where do you live, what is your post office ? A Vinita.
Q Are you a Cherokee citizen ? A Yes sir.
Q Do you know Emily Battles ? A Yes sir.
Q How long have you known her ? A Ever since she was a small child.
Q Where was she born ? A I don't know where she was born.
Q Where did you first knew her ? A At Salt Lake, Ross's Salt Lake.
Q Is that in the Cherokee Nation ? A Yes sir.
Q What was the name of her mother; did you knew her mother ?
A Yes sir, her name was Mary Clark.
Q How long did Mary Clark live in the Cherokee Nation ?
A I don't know; all her life I guess.
Q When did you first know her ? A Why, when I was a small girl.
Q Has Emily Battles been living in the Cherokee Nation all the time you have known her ? A No sir, part of the time she was here in the neighborhood, and then again, she was away, and I don't know where she was.
Q How long would she be gone ? A I can't tell you that.
Q How many years was that, ago ? A It aint been long, I don't know just how many years, but then its since her sister married, she was here around visiting.
Q What sister ? A Cynthia and Ruth, she's got two sisters, they lived right close by me at that time.
Q They are by the same mother ? A Yes sir, and one of them by the same father.
Q Were you well acquainted with Mary Smith, or Clark ?
A Yes sir.
Q Was she a Cherokee by blood ? A Yes sir.

Q Never was any question was there ? A None as I ever heard of.
Q Did you know her before the war ? A Yes sir.
Q Did you know her up through the war ? A Yes sir.
Q Do you know when she died ? A Yes sir, I was present when she died, but I don't remember when, but I was right there in the house when she died.
Q How many years ago was it ? A About fourteen years.
Q Where was she living then ? A This side of Boling Ferry, on Grand River.
Q That's in Delaware District ? A Yes sir, with her son Billy.
Q Do you remember when Emily was married ? A No sir.
Q Do you know her husband ? A Yes sir.
Q How long have you known him ? A I have known him ever since they were married, I didn't know him before.
Q Where have they been living ? A On Cabin Creek.
Q All the time ? A Yes sir, ever since they were married.
Q It was before she was married you lost track of her ? X
A She was around in the country here.
Q How long would she be gone ? A I don't know, never paid any attention, she would go visiting.
Q You don't know where she was ? A She said she lived on Russell Creek.
Q Do you know whether she ever went out of the Nation ?
A No sir, not since we brought her in here. I don't know whether she has or not.
Q Did she make her home with her mother up to the time she married
A She made her home there part of the time.
Q Emily did ? A Yes sir.
Q While her mother was living ? A No sir, while the old man was living.
Q Was that before or after her mother died ? A Before.
Q Did you know John Clark, her father ? A Yes sir.
Q He was a white man ? A Yes sir.
Q Where did he go to ? A California.
Q When was that ? A About the year '50. It was when this youngest child that's living was a baby.
Q Emily wasn't very old then was she ? A No sir.
Q How old was she ? A I don't know, but she was a small child, and her mother had another little baby when John went to California.
Q He went off and left his family ? A Yes sir.
Q They didn't go with him ? A No sir. She went north with us at the time the refugee Indians went north. Sometime after Billy married she lived with him.
Q How long had Mrs. Clark been living in the Cherokee Nation prior to her death ? A I don't know.
Q How long had she been living in Delaware District ?
A I don't know.
Q She left Saline District a long time ago ? A Yes sir.
Q And lived in Delaware until she died ? A Yes sir; she was a widow woman.

EMILY J. BATTLES, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q State your name ? A My name is Emily J. Battles.
Q How old are you ? A I am fifty six years old; will soon be fifty seven, in May.
Q Are you a Cherokee by blood ? A Yes sir, I am a Cherokee by blood.
Q How much blood have you ? A I suppose I must be what they call a quarter according to the way my mother told it.

Q The rest is white ? A Yes sir.

Q Where were you born Mrs. Battles ? A I was born somewhere in the neighborhood down about Saline District.

Q Cherokee Nation ? A Yes sir.

Q What was your mother's name ? A My mother's maiden name, she was first a Smith, and then she married my papa John Clark.

Q How long did they live together ? A I was too young to know about how many years they lived together, I am not very well posted in education, I had a chance but I couldn't learn. My papa went to California.

Q Do you remember about his going away ? A I don't remember much about it; my mother told me about it.

Q You remember talking about it at the time ? A Yes sir.

Q Did you stay with your mother after that ?

A Oh yes.

Q How long did you live with your mother after your father went away ? A I lived with my mother until I got grown.

Q Then where did you go ? A You know how it was, this war, it had us all torn to pieces, and we just stayed where we could and get a day's work.

Q Did you stay with your mother up until you were grown ?

A Yes sir.

Q You were never out of the Cherokee Nation were you ?

A Oh yes sir, we were in and out.

Q Where did you go ? A Why we had to go backwards and forwards to get something to do.

Q Where did you go when you went out ? A Went up here next to Kansas on Russell Creek.

Q Did you go into Kansas ? A Why right on Russell Creek, you know it's in the Nation.

Q You didn't go into the State of Kansas ?

A Russell Creek is in the Nation.

Q Did you go into Kansas ? A Oh yes I was in there but I didn't remain in there very long. I had rather be excused on some questions, I haven't much education and I have been next door to death in my afflictions and can't remember.

Q Do you know when the war closed ? A I have been here ever since the war, ever since 1866.

Q Have you been living in the Cherokee Nation all the time since the war closed ? - A Yes sir.

Q You have never been out since that time ? A No sir.

Q Who did you make your home with ? A Sometimes I lived with Mrs. Frye, the woman's husband that my mother used to own, this slave is here now that my mother used to own; sometimes I would go there and sometimes I would stay with my half-sister for a home to rest.

Q Who is your half sister ? A Ruth B. Lynch.

Q You and she are by the same mother ? A Yes sir. There's three girls of us and one boy.

Q Didn't you make your home with your mother at any part of that time ? A Only a short time, my mother was a widow and I would just knock around wherever I could get a place and make my home with them that I knowed.

Q When were you married to Mr. Battles ? A In 1884.

Q Where had you been living for ten years before that time ?

A Up on Russell Creek.

Q In the Cherokee Nation ? A In the Cherokee Nation.

Q That's in Delaware District ? A I suppose so.

Q You were living in Delaware District in 1880 ?

A Yes sir, up there on Russell Creek, I guess that is Delaware District.

Q Have you and Mr. Battles been living together ever since 1884 ?

A Been living together ever since 1884 right out here about three miles from here.

Q Its been your home ever since ? A Ever since.

Q What is the name of your sister Ruth's husband ? A Lynch.
Q Her first husband was Buffington ? A Alec Buffington, yes sir.
Q What was he ? A He was a Freedman.
Q Her second husband was Lynch ? A Yes sir.
Q Was he a Freedman also ? A I guess so.
Q You have a sister named Cynthia ? A Yes sir. That's my full sister, sir.
Q What is her husband's name ? A Allen Lynch.
Q Is he a Freedman ? A I guess so.

Examined by W. W. Hastings:

Q Were you ever married before you married Mr. Battles ?
A No sir, I was not.
Q You never were married before ? A No sir, this is the only legal husband I have ever had. He is the only lawful husband I ever had.
Q Did you ever have an unlawful husband ?
A Well, you know just how it is, sometimes poverty drives people to stay around sometimes, but this is the only lawful husband I ever had.
Q Well, I mean did you ever live with any other man as wife, I mean in the same house, and hold him out as your husband for any length of time ? A No sir, I never did, and never recognised no other husband but this one.
Q With whom did you live on Russell Creek ? A Little family up there on Russell Creek, I can't now explain to you; I can't trace them up. I tried to stay there a little while and rest up, consequently they went to Michigan, the old folks did.
Q Did you go with them ? A No sir. I had no business going with them. I made that my home there a shor time you know.
Q Well now, how long did you live with that family up there ?
A I guess backwards and forth about four years. Part of the time trying to get out and work.
Q Where were you living when the war closed ?
A Where was I living ?
Q That's the question. A If I make no mistake, I think when the war closed I think I was with Mr. Frye here. Mr. Frye was my mother's slave.
Q I am trying to get from you your whereabouts, how long did you stay with Frye ? A If I aint mistaken, I think it must have been four or five years.
Q That would run you up to about 1870, then where did you go ?
A I can't tell you; I was here in the Nation, that's all I can tell you.
Q Do you know who you lived with ? A I can't tell you.
Q Can't you find anybody that knows anything of your whereabouts before 1884, when you married; before your marriage ?
A Before I was married ?
Q Yes ? Anyone that knows something of your whereabouts in this country before your marriage to Mr. Battles ?
A I think I can find witnesses right out there.
Q Who is it ? A There's my own sister right out there that knows I was right out there on the Creek.
Q No, she don't. A I think so, I don't know.
Q I want you to tell without talking around and around about. I want you to give this Commission some sort of a statement about where you were from the close of the war up to the time of your marriage ? A I will tell you. I worked a while down below the ford of the creek.
Q Who for ? A Mr. McLain that died.
Q How long did you work for them and when ?

A I don't know just what year it was in, that was the year in 1883.
Q Before you married ? A Yes sir.
Q Where were you the year before that ? A Why I stayed at McLain's there, and in the year 1884 him and I was married.
Q Where were you in 1882 ? A I was on Russell Creek.
Q Who with ? A Up there living around working where I could.
Q Now, was there any town up there around Russell Creek ?
A No sir.
Q Wasn't any farms up there, was there ? A Some few.
Q Well now, who had one ? A Well, to give out the truth of it, I can't remember it.
Q There wasn't a single farm up there on Russell Creek in 1882 and you know it ? A The old place had been.
Q You know it, and I know it, there wasn't a house on Russell Creek in 1882, was there ? Who were you living with ?
A There was a family that went to Michigan, named Pembertaon. They went off to Michigan.
Q Were you anyways near a railroad up there ?
A The nearest railroad I guess, was out towards Chetopa, I guess.
Q How far were you from Chetopa ? A I suppose--they all said it was about six miles.
Q What direction were you from Chetopa ? A South-east of Chetopa on place they called the old Rogers place.
Q On whose place did Pembertaon live, this white family ?
A He lived across there on a man's place by the name of Roach, a white man named Roach, but they all broke up so I don't know where Mr. Roach is.
Q If he was a white man how did he own the place, I want to know some citizen ? A I don't know of any citizen around there. The only citizens I know of was the Silverheels.
Q How long did you live there ? A Off and on about 4 years.
Q Where did you live before that ? A Sometimes with Mr. Frye and sometimes with my half-sister.
Q Didn't Millie Frye live close to your half-sister all the time ?
A Yes sir.
Q Well, she would know about it if you were down there ?
A Oh of course she would.
Q Well now, did you live down there and with this Pembertaon family up there, say from after the war until your marriage ?
A No sir, I did not.
Q Where else did you live ? A I was working for McLain, and worked there on Big Cabin for another family. I would work there until I would get tired, and would go back to my sister's. I was working for this family when I got acquainted with Mr. Battles.
Q Who with ? A Harkness. They had corn there and I went there to gather corn.
Q I don't care anything about that.

Examined by the Commission:

Q Did you at one time live with a man named Franklin ?
A I stopped there a while.
Q Well, did you live there as his wife ? A I stayed there and tried to better myself.
Q Were you married to him ? A No sir.
Q Were you recognized as husband and wife ? A Not in company.
Q Did you regard yourself as his wife ? A No sir.
Q Did he ? A No sir, he didn't.
Q That was how long before you married Mr. Battles ?
A How long after I come down here ?
Q No, I mean how long was it you lived with this man ?
A It was about four years afterward that I married Mr. Battles.

Q It was about 1880 that you lived with this man Franklin ?
A I don't know just what time.
Q How long did you live with him ? A Only a short time. I thought I would better myself, but I didn't.
Q About how long is that ? A I can't remember just how many years.
Q Was it two or three years ? A I don't know whether it was or not, because I aint good on memory, because I aint got no education.
Q In what part of the Cherokee Nation were you living at the time you lived with this man Franklin ? A Right on Russell Creek.
Q Was Franklin a white man ? A No sir, he was a Mexican. I thought I would better myself a little while by getting shed of hard work, but I didn't.
Q You never married him ? A No sir.
Q Never regarded yourselves as husband and wife ?
A No sir.
Q Is that man living or dead ? A I can't tell you whatever become of him. I got tired of living there that way.
Q Did you leave him ? A I was there and lay sick, and my sister come and got me.
Q And took you away ? A Yes sir.
Q You have never seen him since then ? A No sir, I never did.

Examined by Mr. Hastings:

Q Where did you first meet this fellow Franklin ?
A I happened to meet him up there in the neighborhood when I was working out.

ANDY FRYE, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Andy Frye.
Q How old are you now ? A I guess I am about sixty seven.
Q What is your post office ? A Vinita.
Q Are you a Cherokee Freedman ? A Yes sir.
Q You were a slave, were you, before the war ? A Yes sir.
Q Who did you belong to ? A Mary Clark.
Q Did you know any of Mary Clark's children ?
A I knowed them all.
Q Was Mary Clark a Cherokee citizen ? A Yes sir.
Q Do you know Emily J. Battles ? A Yes sir.
Q Is she a daughter of Mary Clark ? A Yes sir.
Q Who were the other children ?
A Cynthia Lynch and Ruth Buffington, and Billy Smith.
Q Ruth Buffington is now Ruth Lynch ? A Yes sir.
Q Mrs. Clark was a Cherokee by blood ? A Yes sir.
Q Did you go out of the Nation during the war times ?
A Yes sir.
Q Do you know if Mary Clark went out too ? A Yes sir.
Q She did ? A Yes sir.
Q Did she take her children with her ? A Yes sir.
Q All of them ? A Yes sir.
Q This Emily ? A Yes sir.
Q Where did they go ? A They first went to Sac and Fox Agency, and then to Kansas.
Q How long did theystay in Kansas ? A They stayed there until after the war.
Q Did you come back to the Cherokee Nation after the war ?
A Yes sir.

Q Did they come back with you ? A The old lady didn't come back with me, but I sent back after her.
Q About when was that ? A In 1867.
Q Did she come back in 1867 ? A Yes sir, she come back to Chetopa in 1867, and in 1868 she moved down on the river.
Q What river ? A Grand River.
Q Was Emily with her then ? A She was with us then. Emily and Cynthia were both with us.
Q Did Emily come with her mother ? A She come when I did.
Q Did she stay with you ? A Sometimes she did and sometimes she was off somewheres else.
Q Where was she ? A Somewheres off in the country round.
Q In the Cherokee Nation ? A Yes sir.
Q How long would she be gone at a time ? A About two or three weeks at a time.
Q And then come back to your house ? A Yes sir.
Q Where was she living from that time on up to the time she was married ? After the time she come back from Kansas up to the time she was married, where was she living ?
A Up on Russell Creek, and along in about 1880, I believe, she come down here where we live.
Q Near Vinita ? A Yes sir. And I think she went back up there; she was living on Russell Creek then along in 1880 or 1882.
Q From 1868 up to 1880 can you tell just where she was living ?
A I don't know just where she was living then, but she was down in here at that time.
Q How often would you see her ? A I don't know how often, but once in a while.
Q For a year or two perhaps you wouldn't see her ?
A Oh about a year I wouldn't see her, but I could hear of her being up on Russell Creek.
Q Where was her mother during all that time ? A She stayed here a while and went back up to Chetopa, she moved back and lived with me a while, and she lived with Ruth a while, and lived with Billy a while, and died at Billy's.
Q From the time she came from Kansas up to the time she died, she never lived out of the Cherokee Nation ? A She went back to Chetopa and stayed a year or two working, and then she moved back.
Q When did she move back ? A Along about seventy something, I can't tell just what time.
Q Where had she been living for some years before she died ?
A She lived with her son Billy pretty near all the time up on Grand River.
Q So that you don't know for certain just where Emily was during these years ? A No, she lived up on Russell Creek; that was her home there.
Q What was she doing there ? A She was living there.
Q Was she working ? A Worked the biggest part of the time.
Q Who was she living with ? A I believed she lived with a man by the name of Franklin.
Q How long ? A I don't know how long.
Q When was that ? A That was when she was living up on Russell Creek.
Q Between seventy and eighty ? A Along about 1880, I think, she come down, back here along about 1880.
Q After she left Franklin ? A Yes sir.
Q Shortly after that she married Mr. Battles ?
A Yes sir, I don't know when they married.
Q Have you known her since that time ? A Yes sir.
Q Where has she been living ?
A Over there on Battles place.

Q Delaware District ? A Yes sir.
Q Have they been living over there together all this time ?
A Yes sir.
Q Did you know John Clark, Emily's father ? A Yes sir.
Q Was he a white man ? A Yes sir.
Q When did he go away to California ?
A I think he went off in 1850.
Q Went away before the war ? A Yes sir.
Q Never came back ? A No sir.
Q Did you know Mrs. Clark's second husband, Smith ?
A Yes sir.
Q Was he a white man ? A He was a full blood Cherokee.
Q How long did they live together ? A About two years.
Q Did he die ? A No, they separated.
Q Is Smith living now ? A No sir, he's dead.
Q How long since he died ? A Along about the war.

Examined by Mr. Hastings:

Q Did you ever hear of Emily Battles going back to Kansas after she came down here that time ? After she came down after the war ?
A No sir, I never did.
Q To the best of your knowledge and belief, and from what information you have, she never went back ?
A I don't think she ever went back; I never heard of her going back.
Q Your information is she lived around in the Cherokee Nation ?
A Yes sir, she was in the Cherokee Nation somewheres.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this March 3, 1903.

Samuel Foreman

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emily J. Battles et al. as citizens by blood of the Cherokee Nation, consolidating the applications of

Emily J. Battles-----------------Cherokee D 404
Ruth B. Lynch et al.-------------Cherokee D 487

D E C I S I O N

The record herein shows that applications for enrollment, as citizens by blood of the Cherokee Nation, were made to this Commission by Willis Battles, Jr., for his wife, Emily J. Battles; said application also included the said Willis Battles, Jr., who claims right to enrollment as a citizen of the Cherokee Nation by intermarriage but, the status of such persons not being fixed at this time, the said Willis Battles, Jr., is not embraced in this decision; by Ruth B. Lynch for herself and minor children, John, Cynthia, Claude, Rosa M. and Willis Lynch and Lucian and Alex Buffington. A copy of the testimony taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application of Anderson Lynch, for enrollment as a Cherokee Freedman, is filed with and made a part of the record herein.

The evidence shows that the said Emily J. Battles and Ruth B. Lynch are the children of one Mary Smith or Clark, who was a citizen by blood of the Cherokee Nation. The said Emily J. Battles is identified on the 1886 Cherokee pay roll (nationality not given) and on the 1894 Strip payment and the 1896 census roll of the Cherokee Nation as a native Cherokee. The said Ruth B. Lynch is identified on the 1880 authenticated roll and the 1896 census roll of the Cherokee Nation as "adopted colored" and on the 1894 Strip payment roll of said nation as a native Cherokee. All the other applicants herein are the minor children of the said Ruth B. Lynch and, with the exception of said Willis Lynch, are identified on the 1894 Strip payment roll of the Cherokee Nation; and the applicants, John, Cynthia, Claude, Rosa M. and Willis Lynch, are identified on the 1896 census roll of said nation.

The evidence further shows that all of the applicants herein have continuously resided in the Cherokee Nation since 1880, or from birth where born subsequent to that time.

It is, therefore, the opinion of this Commission that Emily J. Battles, Ruth B. Lynch, John Lynch, Cynthia Lynch, Claude Lynch, Rosa M. Lynch, Willis Lynch, Lucian Buffington and Alex Buffington should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this OCT 22 1906

D404

In the matter of
the application
of Willie Battle
& wife for enroll-
ment as a citizen
of the Cherokee
Nation

Brief of applicants

Copy.

Before the Commission to the Five Civilized Tribes.

In the matter of the Applicaation of Willis Battles and Emily Jane Battles, his wife, as citizens of the Cherokee Nation.	Brief of Applicant.

Statement of Facts.

The wife of applicant, Willis Battles, is shown by the testimony to be one-fourth Cherokee Indian by blood; that Willis Battles married her on April 1st, 1884, under the laws of the Cherokee Nation, as shown by marriage license and certificate; that the wife was living in the Cherokee Nation in 1880 but was not placed on the roll of 1880 as she was sick at the time; that the name of Emily Jane Battles appears on the Roll of 1896, page 444, No. 427, and his on same roll, page 566, Np. 69 as Willis Battles, Jr., that his wife, Emily Jane Battles, has lived in the Cherokee Nation all her life and Willis Battles since his marriage to her in 1885.

Argument.

The applicant, Emily Jane Battles, is a Cherokee by blood and her name not appearing on the Roll of 1880 is satisfactorily Explained; Her sister's testimony shows, together with her own, that she was at her sister's house at the time sick and could not go to the census takers and they did not come to her. The Cherokee authorities recognized her as a citizen as is shown by marriage licenses issued by the Clerk of the District to marry Willis Battles, Jr., and she is on properly on the rolls of 1896 and no fraud has been charged or proved by the Cherokee Nation and hence under section 21 on the Act of Congress of June 28th 1898 should be enrolled.

Now as to her husband, Willis Battles, Jr., I submit.

that he is entitled to enrollment as he complied with the Cherokee Law regulating intermarriage with Cherokees and obtained his license as shown in this record. She was never legally the wife of Balckwell and hence no divorce from him was necessary for the reason none of the formalities required by Cherokee Law were complied with by Blackwell and Emily Jane Battles, and hence the marriage relation did not exist between Emily Jane and Blackwell. In support of which I refer you to Sections 884 and 889 of Complied Laws of The Cherokee Nation of 1892.

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The Cherokee Nation had at that time and still has, very clear, distinct and formal requirements as to marriages, as will be seen from the reading of the laws above quoted. None of which formalities were ever followed by these parties. Hence I submit that there being no lawful marriage there were no bonds to annul by a divorce court. A divorce Court requires parties to allege and prove a lawful marriage as a condition precedent to a decree of Divorce. Then under his license and certificate Willis Battles, Jr., was entitled to enrollment on the rolls of 1896 and under section 21 Act of Congress of June 28th, 1898 he is entitled to enrollment now.

Respectfully submitted.

Wm. T. Thompson

Atty. for Applicant.

M29

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-404
" D-487.

Muskogee, Indian Territory, October 23, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 22, 1903, in the consolidated case of Emily J. Battles et al., granting the applications for the enrollment of Emily J. Battles, Ruth B., John, Cynthia, Claude, Rosa M. and Willis Lynch, and Lucian and Alex Buffington, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Enc. D-15.

Commissioner in Charge.

D.4

Willie Bottles et al.

OCT 16 1907 Cancelled and transferred to Cherokee D-1100.

Cher D 405

Cher D 405

D405

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
[illegible]
SEP 21 [illegible]
Acting Chairman

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I.T., September [illegible], 190[illegible].

In the matter of the application of Mittie Dawson for the enrollment of herself as a Chickasaw citizen; being sworn and examined by Commissioner Breckinridge she testified as follows:

Q What is your full name? A Mittie Dawson.
Q How old are you? A 52.
Q What is your post-office? A Dawson.
Q What district do you live in? A [illegible].
Q Who is it you want to have put on the roll? A [illegible] stepped [illegible].
Q She is of age? A Yes sir.
Com'r Breckinridge; She will have to apply for herself.
Q Are you a Chickasaw by blood? A No sir, intermarried.
Q How long have you lived in the Chickasaw Nation? A I was married in 1882.
Q What is the name of your husband? A W.A.Dawson.
Q Is he a Chickasaw? A He was a Chickasaw by blood.
Q He is dead is he? A Yes sir.
Q When did he die? A December 1899.
Q You haven't married since his death? A No sir.
Q Have you a certificate of your marriage? A Yes sir. That is I have the affidavit of the minister who married us.

T[illegible]A WOOLEY, being sworn and examined by Commissioner Breckinridge testified as follows:

Q What is your full name? A Tezanna Wooley.
Q Are you acquainted with this lady here, Mrs. Dawson? A Yes sir
Q Are you a step-daughter of hers? A Yes sir.
Q Your father was W.A.Dawson? A Yes sir.
Q When did your father and this lady marry? A It has been seven years ago, I think, seven or eight years.
Q Were you present at the wedding? A No sir. They married in Cameron and I was at home.
Q But you know it to be a fact? A Yes sir.
Q And they lived afterwards as husband and wife until your father died? A Yes sir.
Q Your father died December of last year? A Yes sir. 3rd day of December.
(Applicant recalled:

Q Have you a certificate of your husband's ~~xx~~admission?
A Yes sir. (Produces papers)
[illegible] roll examined for applicant [illegible] not found.
Q How old was your husband when he died? A 53 years old.
Q What is the W. for in your husband's name? A Wilbur.
Q Was he separated from his former wife? A Yes sir.
Q You are on the roll of 1896? A Yes sir I was, but our names were erased from the roll of 1896 for some cause.
Q Why so? A Prejudice.
Q Yours and your husband's both? A Yes sir, my husband enrolled us and the last year of Council our names were taken from the roll, I suppose; I guess that's when they were taken off.
Q Did you ever apply to the Dawes Commission for enrollment?
A No sir, I never applied to the Dawes Commission but my husband after our names were stricken from the rolls he got Judge Denison--
Q But you applied to the Dawes Commission, did you? A Yes sir.
Q Your husband was married before he married you? A Yes sir.

Q [illegible] A [illegible].
Comm'r Breckinridge: [illegible] for evidence of divorce.
Comm'r Breckinridge: The applicant presents what purports to be an official copy under date of December [illegible], that being the date when petition was filed by sundry persons for admission to Cherokee citizenship, and this paper indicates that on September [illegible], 1884, sundry parties were admitted to citizenship, and among them, appears the name of [illegible] A. Thompson.
Q That's the name of your husband is it, madam? A Yes sir.
Q Where did your husband live after he was admitted in 1884, did he continue to live in the Cherokee Nation? A Yes sir.
Q All the time until he died? A Yes sir.
Q You lived with him from the time of your marriage until his death
A Yes sir.

Comm'r Breckinridge: The applicant is shown by personal testimony to have been married to a [illegible] in 18[illegible], and she presents what appears to be an official evidence of her husband's having been admitted to Cherokee citizenship in 1884; she states that he lived in the Cherokee Nation from the time of his admission until his death December of last year, and that they lived together as husband and wife from the time of their marriage until his death, and that she has not re-married since; neither of them are found upon the census roll of 1896, and the Commission will take the application under advisement and it will be for the present placed upon a doubtful card for that purpose; final result will be made known to the applicant at her post-office address, and it will be forwarded to the Secretary of the Interior for his approval.

[illegible], being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this [illegible] day of September 1900.

Commissioner.

D405-

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 13th, 1902.

In the matter of the application of Millie T. Dawson for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-405.

MILLIE T. DAWSON, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. Millie T. Dawson.
Q. Millie T. Dawson, is it? A. Yes, sir.
Q. Do you wish to be enrolled as Millie T. Dawson? A. Yes, sir.
Q. How old are you? A. 54.
Q. What is your post office? A. Dawson, Indian Territory.
Q. You are a white woman, are you? A. Yes, sir.
Q. What is the name of the husband through whom you claim citizenship? A. Wilburn Dawson. His initials are W. A. Dawson.
Q. Is he your first husband? A. Yes, sir.
Q. Were you ever married before you married him? A. No, sir.
Q. Was Mr. Dawson ever married? A. Yes, I was his third wife.
Q. Were both his wifes dead when he married you? A. No, sir. One is dead, the other was divorced.
Q. First or second wife dead? A. First wife dead.
Q. His first wife is dead and his second wife is divorced?
A. Yes, sir.
Q. What was his second wife's name? A. Malissa.
Q. When were you married to W. A. Dawson? A. 1892, October.
Q. Are you living with him now? A. He is dead.
Q. When did he die? A. '99.
Q. Did you live with him from the time you married him in 1892 until the time of his death? A. Yes, sir.
Q. In the Cherokee Nation? A. Yes, sir.
Q. You haven't been married since his death, have you? A. No, sir

!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 20th, day of November, 1902.

B C Jones
Notary Public.

CHEROKEE. D 406

Millie Dawson

OCT 1 4 [illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 304

Cher D 406

Cher D 406

D406

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 25 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 21, 1900.

In the matter of the application of ~~Sutx~~Texanna Wooley for the enrollment of herself and child as Cherokee citizens being sworn and examined by Commissioner Breckinridge she testified as follows:

Q What is your full name? A Texanna Wooley.
Q How old are you? A [illegible]
Q What is your post-office? A Dawson, I.T.
Q In what district do you live? A Cooweescoowee.
Q Who do you want to have put on the roll? A Myself and baby.
Q You claim for yourself as a Cherokee by blood? A Yes sir.
Q What proportion of blood have you got? A 1/16.
Q How long have you lived in the Cherokee Nation? 16 years.
Q What is your father's name? A W.A.Dawson.
Q Is he a white man? A Cherokee.
Q Dead or alive? A He is dead.
Q How long has he been dead? [illegible] last.
Q Your mother's name? A [illegible] A. Dawson.
Q Cherokee or a white woman? A White woman.
Q Is she dead or alive? A Alive.
Q Were you admitted to Cherokee citizenship by act of Cherokee Commission,- your name on the list? A No sir, my father's name is on there; I was a minor at that time, but I was on that roll and have been enrolled ever since.
Q Your father was admitted in 1884? A Yes sir.
Com'r Breckinridge: Applicant presents what purports to be and appears to be an official copy of the list of admitted persons to citizenship by the Cherokee Commission September 1[illegible] 1884, and bearing thereupon the name of W.A. Dawson.
Q That is your father's name is it? A Yes sir.
Q Have you lived in the Cherokee Nation ever since you were admitted in 1884,-- ever since your father was admitted? A Yes sir.
Q Is your name anywhere in any certificate of admission?
A No sir.
Q When were you married? A 17th of November [illegible].
Com'r Breckinridge: Applicant presents marriage license issued by the Clerk of the United States Court for the Northern District of Indian Territory, dated November 17 [illegible], authorizing marriage between Miss Texanna Dawson and Mr. James Wooley; the certificate shows that they were married the 17th of November [illegible], by the Rev. J. [illegible], this is filed herewith.
1896 roll examined for applicant, and was not found;
1894 roll page [illegible] #2005 Texanna Dawson, Cooweescoowee District.
Q What is the name of your child? A Irene Wooley.
Q How old is your child? A Ten months old.

Com'r Breckinridge: The applicant applies for the enrollment of herself and one child; her father is shown as indicated in the testimony to have been admitted to Cherokee Citizenship by the Cherokee Commission in 1884; the applicant is not identified in the certificate of admission; she is identified on the roll of 1894, but not upon the roll of 1896; her change of name is established by her marriage, of which the license and certificate are filed herewith; she has lived in the Cherokee Nation ever since her father was admitted in 1884; her application for enrollment will be placed upon a doubtful card; when the Commission is supplied with proper certificate of the birth of the child, Irene it also will be listed with its mother upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 24 day of September 1900.

Commissioner.

[illegible] THE MAT[illegible] ON O[illegible]

Texanna Wooley Et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

[illegible]

CHEROKEE. D 406

Tuxanna Woolley et al

April 12, 1904. Cancelled and Nos. 1 to 3 incl. transferred to Cherokee 10761.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 384

Cher D 407

Cher D 407

D407

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
ACTING CHAIRMAN

DOUBTFUL AS TO WIFE MARY C. ALLEN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application of Ameriah C. B. Allen for the enrollment of himself and wife as Cherokee citizens; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q What is your name? A Ameriah C. B. Allen.
Q What is your age? A 48
Q What is your post-office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Who is it you want to have put on the roll, yourself? A I guess that's all my wife is a white woman, and we was married in Arkansas.
Q Are you a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood do you claim? A My mother was a quarter Indian and my father was a white man.
Q When were you married to your wife? A I was married in 1872 I was married before there was any license, in Arkansas.
Q You have been living with her ever since you have been married?
A Yes sir.
Q Apply for your wife, also then? A M.C.Allen.
Q How long have you lived in the Cherokee Nation? A Ever since 1883.
Q Were you admitted by the Cherokee Commission in 1883? A Yes sir
Q Have you a certificate of admission? A Yes sir.
Com'r Breckinridge: The applicant presents official copy of the act of the Cherokee Commission on citizenship under date of September 10, 1883, that certain persons were admitted to citizenship, among them appears the name of A.B.Allen.
Q That your name? A Yes sir, they left out the C. in copying I guess; ~~that~~
Q That was meant for your name is it? A Yes sir. That's it; that's when I was admitted.
Q Who is this Olive Isabelle Allen? Mentioned in this?
A That's my daughter.
Q Your wife's name is not mentioned in this? A No sir
Q You never have been married to her according to Cherokee law?
A No sir
Com'r Breckinridge: This is recognized as official evidence of the facts stated, and it is returned to the applicant.
Q You have lived in the Cherokee Nation ever since 1883? A Yes sir
Q Give me your wife's name? A Mary C. Allen.
Q You were married to her in Arkansas in 1872? A Yes sir.
Q How old is she? A She is four years younger than I am, she is forty-four.
Q Have you got a certificate of your marriage? A No sir
1896 roll page 102 #191 A. Curtis B. Allen Cooweescoowee, native Che
Q That's your name is it? A Yes sir.
1896 roll page 263 #4 Mary C. Allen, Cooweescoowee.
Q Your wife has lived with you ever since you were married in '72
A Yes sir.

Com'r Breckinridge: The applicant applies for the enrollment of himself and his wife; he is shown to have been admitted to citizenship in the Cherokee Nation by the Cherokee Commission on citizenship in 1883; he states that he has lived in the Cherokee Nation from that date until this time; he is identified on the roll of 1896 as a native Cherokee and he will be listed now for enrollment as a Cherokee by blood. He states that his wife was married to him in 1872; they were married under United States law and have never been remarried in accordance with Cherokee law, nor is her name included [illegible] 2

with [illegible] certificate of [illegible] the [illegible] she is [illegible] of [illegible] with her husband; for her further [illegible] of any right she may have by reason of her husband's [illegible] as a native Cherokee [illegible] and of her having appeared with him as his wife [illegible] her [illegible] will be suspended [illegible] will be noted upon a [illegible] card, and the [illegible] will be communicated to the applicant [illegible] address; [illegible] to supply [illegible] with a certificate of his marriage.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 24 day of September 1900.

Commissioner

D407

"R"

D 407

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Mary C. Allen to be enrolled as a citizen of the Cherokee Nation:

Appearances:
Applicant represented by husband;
W W Hastings, for the Cherokee Nation.

THOMAS B. ALLEN, being sworn and examined, testified as follows:

Q What is your name ? A Thomas B. Allen.
Q How old are you ? A 40.
Q Where do you live ? A Vinita.
Q Are you acquainted with the applicant in this case, Mary C. Allen ? A Yes sir.
Q How are you related to her ? A She is my sister-in-law; my brother's wife.
Q What is her husband's name ? A A. C. B. Allen.
Q Do you know when they were married ?
A Yes sir, I know just about the date . It's been so long I can't remember the exact date.
Q Were you present when they were married ? A Yes sir.
Q Is she a white woman ? A Yes sir.
Q They have lived together continuously since they were married ?
A Yes sir.

Examined by Mr. Hastings:
Q Were either of them ever married before ? A No sir. They were very young.
Q You said you were present at the marriage ? A Yes sir.

A. C. B. ALLEN, being sworn and examined, testified as follows:

Q What is your name ? A A. C. B. Allen.
Q You are the husband of Mary C. Allen, the applicant in this case ?
A Yes sir.
Q When were you married to her ?
A On the 26th day of February, 1873.
Q You and your wife have lived together continuously since that marriage ? A Yes sir.
Q Were you ever married before ? A No sir.
Q Was she ? A No sir.
Q You are living together at this time ? A Yes sir.
Q Do you submit this case in behalf of your wife for the final consideration of the Commission ? A Yes sir.

Applicant, by her husband A. C. B. Allen, and the representative of the Cherokee Nation, submit this case to the Commission for final consideration, and the same is ordered closed, and reported to the Commission for its final decision based upon the evidence now on file.

"R"
D 407 ----2

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

Cherokee-D-407

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Ameriah C. B. Allen for the enrollment of his wife, Mary C. Allen as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 24, 1900, the applicant, Ameriah C. B. Allen, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Mary C. Allen, as a citizen by intermarriage of the Cherokee Nation. Further testimony was submitted in this case on February 25, 1902 at Muskogee Indian Territory. Ameriah C. B. Allen has been listed for enrollment on Cherokee Roll Card Field No. 3388.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that Ameriah C. B. Allen was admitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship, September 10, 1888. He is identified on the 1896 census roll of the Cherokee Nation, page 102, No. 101. His wife, Mary C. Allen, is identified on said roll, page 202, No. 4. It further appears that Ameriah C. B. Allen was lawfully married to his wife, Mary C. Allen, on February 26, 1873.

In 1871 the Supreme Court of the Cherokee Nation having under consideration the question of white women's claiming Cherokee rights by marriage said:

"That common custom of the Cherokees since their first intercourse with white men made common law upon which most of our statute laws have been founded. White women have been taken as wives by Cherokees from time immemorial, and their rights as Cherokees has never been disputed apart from that of her husband. In all treaties

> with the United States white women intermarried with Cherokee men have ever been classed as a part of our people. As the Cherokee is the acknowledged head of the family and white women as wives become subject to him as such and as no special law to regulate the status of white women has been made, nor does the court think it necessary. Therefore this court holds that Nancy Rodgers and all other white women married to Cherokee men or the widows of such and who have not forfeited their rights under any other law are entitled to such rights and privileges as white men who have been married under the law regulating intermarriage between white men citizens of the U. S. and Cherokee women."

On November 10, 1886 in the case of Melissa Dawson vs. W. A. Dawson a motion was made to dismiss the case upon the ground that the plaintiff was a white woman and a citizen of the United States. It was shown in that case that W. A. Dawson was married to his wife, Melissa, prior to his admission to citizenship in the Cherokee nation. The motion was overruled by the Supreme Court and the Nancy Rodgers case was cited with approval.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Mary C. Allen is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for her enrollment as such should be granted, a and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,

this MAY 20 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

D - 407.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith, please find a copy of the decision of the Commission rendered May 20, 1902, in the matter of the application of Mary C. Allen for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above named person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Enc. D- 407.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 407.

Muskogee, Indian Territory, August 5, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of date May 20, 1902, granting the application of Ameriah C. B. Allen for the enrollment of his wife, Mary C. Allen, as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior on the 26th day of July, 1902.

Yours truly,

Acting Chairman.

Mary C. Allen

Transferred to Cherokee 9469

Cher D 408

Cher D 408

D 408

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 25 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T , SEPTEMBER 24, 1900.

In the matter of the application of Robert Pierce for the enrollment of himself, wife and child as citizens of the Cherokee Natin said Piecre being Sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Robert Pierce.
Q How old are you? 27.
Q What is your post office? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes,sir
Q Your father living? A Nosir.
Q Mother? A No, sir.
Q What proportion of blood have you? A One-sixteength.
Q Whom do you apply for? A Just myself and wife and one child.
Q What is the name of your wife?A Nellie.
Q IS she a citizen by bood? A No, sir, white woman.
Q What was her name before you married? A Daller.
Q Have you any proof of marriage? A Yes, sir.

Applicant presents certificate of marriage, certifying that he was married to Miss Nellie Dailer, on the 15th day of July, 1894, a non-citizen of the Cherokee Nation.

Q What is your mother's name? A Joserphine Pierce.

The applicant presents a certificate of Admission to Cherokee citizenship, issued from the office of the Committees on Citizenship, on the 11th of January, 1883, certifying that sundry persons were admitted to citizenship on that day. Said certificate being signed by Thomas Tehee, President of the Commission, Alex. XXX Wolf and T. F. Thompson, Commissioners, attested by D. W. C. Duncan, Clerk of the Commission. The correctness of said certificate is certified to by D. W. C. Duncan, Clerk of the Commission under the 3d day of December, 1883. Applicant avers that his mother's name was one Joserphine Dawson, and the name of said Joserphine Dawson appears in said certificate.

Q Is the Joserphine Dawson whose name appears in the certificate you present, the identical Joseppphine Dawson you claim to be your mother? A Yes, sir.
Q When were you born? A 1873.
Q Your mother was admitted in 1883? A Yes, sir.
Q How does it happen that your mother's name wasJoserphine Dawson and you r name Pierce? A She married a man by the name of Pierce before she was admitted and that is how her name is Pierce.
Q Joserphine Dawsen was married to a man by the name of Pierce before she was admitted and that man is your father? A Yes,sir.

1896 enrollment; page 516, #2387, Robert Pierce, Delaware.
1896 enrollment; page 585, #435, Nelly Pirce, Delaware.

Q You say you have a child? A Yes, sir.
Q What is the name of the child?A Myrtle.
Q How old is she?A A year old.
Q Have you any proof of its birth? A Yes, sir.

Applicant presents proof of birth as to the birth of his youngest child, xxxxxx Myrtle Pierce, one year of age, whose name does not appear upon the roll of 1896, having been after said roll was compiled.

Interrogaretion by W.W.Hastings, Cherokee Representative:

Q When did you come tothe Cherokee Nation? A Somewheres near 18 or 20 years ago.
Q Have you lived here continuously since then? A Yes, sir.
Q You were about 10 years old when you come here? A Yes, sir.

Robert Pierce---2.

Com'r Needles:--The name of Robert Pierce appears upon the census roll of 1896 and he presents certificate of marriage to one Nellie Daller, a non-citizen, certifying that he was married to her in the year 1894, and her name appears upon the census roll of 1896. The applicant applies for citizenship as a Cherokee citizen by blood, averring that he is the son of Joserphine Dawson, who was admitted to citizenship in the year 1883. The name of the said Robert Pierce does not appear in the certificate to admission as presented, but the name of his mother, Joserphine Dawson, does so appear. From the fact that the applicant was born in 1873, and his name does not appear in any certificate of admission or appear upon any of the authenticated rolls, and that his mother was admitted in the year 1883, some ten years after his birth, final judgment as to the enrollment of the said Robert Pierce and his wife, Nellie, and daughter, Myrtle, will be suspended and their names will be placed upon a doubtful card, and also for the reason that the Cherokee Nation protests against the enrollment of said parties, averring that they were admitted by fraud.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings inthis case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 25th day of September, 1900.

Commissioner.

D408

(DAWSON CASE)
Cherokee D-408.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1902.

In the matter of the application of Robert Pierce for the enrollment of himself and children, Myrtle and Arthur Pierce, as citizens by blood, and for the enrollment of his wife, Nellie Pierce, as a citizen by intermarriage of the Cherokee Nation; ~~he~~ Albert H. Dawson, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Albert H. Dawson.
Q What is your age and postoffice? A 28; Afton.
Q Are you acquainted with Robert Pierce who is an applicant for enrollment as a citizen by blood of the Cherokee Nation? A Yes sir.
Q How long have you known him? A About sixteen years.
Q Are you acquainted with his wife, Nellie? A Yes sir.
Q Is she a white woman or a citizen by blood? A White woman.
Q She claims by intermarriage? A Yes sir.
Q How long have you known Nellie Pierce? A Something like eight years.
Q What was her name before she married Robert Pierce? A Nellie Dollar.
Q You know about what Nellie Pierce's age is at this time? A I would judge about 25.
Q When was Robert Pierce and Nellie Pierce married do you know? A Some time in '94 I believe, along in June, July or August.
Q Was Robert Pierce ever married before he was married to Nellie Pierce? A No sir.
Q Was Nellie Pierce ever married before she married Robert Pierce? A No sir.
Q She is Robert Pierce's first wife? A Yes sir.
Q And he is her first husband? A Yes sir.
Q Have they lived together as husband and wife from the time of their marriage up until the present time? A Yes sir.
Q Have they ever been separated during that time? A No sir.
Q Were they living together as husband and wife on the first day of September, 1902? A Yes sir.
Q How long has Robert Pierce lived in the Cherokee Nation? A For eighteen or twenty years.
Q How long have you known him? A I have known him for 16 years.
Q You have known him to live in the Cherokee Nation for the last 16 years? A Yes sir.
Q All the time? A Except he was out in Colorado about three months I believe.
Q How long has his wife, Nellie Pierce, lived in the Cherokee Nation? A About eight or nine years.
Q Has she lived in the Cherokee Nation all the time since she and Robert Pierce were married? A Yes sir.
Q Are these two children, Myrtle and Arthur Pierce, the children of Robert and Nellie Pierce? A Yes sir.
Q Are they living at this time? A Yes sir.
Q And they have lived in the Cherokee Nation all their lives? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. T. Rothenberger

Subscribed and sworn to before me
this 18th day of October, 1902.

B. P. Jones
Notary Public.

mo 4

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 408,
et al.

Muskogee, Indian Territory, April 26, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 23, 1902, granting the applications for the enrollment of Robert, Myrtle, Arthur and Charles E. Pierce, Oma, Cecil and Velton Gray, and Nancy J., James E., Edna N., John H., Marvin R., Claud and Nancy Edith Bogle, as citizens by blood, and for the enrollment of Nellie Pierce and John S. Bogle, as citizens by intermarriage, of the Cherokee Nation, and dismissing the application for the enrollment of William Pierce as a citizen by blood of said Nation, he having died in January, 1901, was affirmed by the Secretary of the Interior, as to all except those claiming by intermarriage, on April 13, 1904.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

Robert Pierce Et. al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

CHEROKEE. D 408

Nellie ~~[illegible]~~ Perry ~~[illegible]~~

1W

April 25, 1904. Nos. 1, 3 and 4 transferred to Cherokee 10773.

OCT 14 1907 [illegible] trans-
ferred [illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Dec 1894

Cher D 409

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D409

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 25 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 24, 1900.

In the matter of the aplication of William Pierce for the enrollment of himself as a citizen of the Cherokee Nation; said Pierce being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A William Pierce/
Q What is your age? A 29.
Q What is your post office address? A Afto .
Q Are you a recognized citizen of the Ch rokee Nation? Yes, sir.
Q Your name appear upon the roll of 1880? A 1883.
Q I ask you if your name appears upon the rol of 1880? A No, sir.
Q What is the name of your mother? A Joserphine Pierce.
Q Is she living? A No, sir, she is dead.
Q What was her name after the death of your father, Pierce? A Kelley.
Q Was her name ever Dawson? A Yes, sir.
Q Was it Dawson before it was Kelly? A Dawson before it was Pierce
Q Was Dawson her maiden name? A Yes, sir.
You present a certificate of Admission from the Commission on Citizenship at Tahlequah, dated the 11th day of January, 1883; said certificate being signed by Thomas Fisher, President, of the Commission, Alex Wolf and T. F. Thompson, Commissioners, and attested by D. W. C. Duncan, Clerk of the Commission, and also certificate as to the sorrectness of the same by D. W. C. Duncan, Clerk of the Commission. In the Certificate of Admission you present; you refer to the name of Joserphine Dawson; do you aver that the Joserphine Dawson mentined in this certificate is your mother? A Yes,sir.
Q She was your mother? A I thin she was.
Q Was your mother's maiden name Dawson? A Yes, sir.
Q You claim citizenship through the admittance of Joserphine Dawsion to the Cherokee Nation? A Yes, sir, to the best of my recollection.
Q By what right do you claim citizenshipto the Cherokee Nation, your name is not on the rol of 1880? A It is on the rol of 1883.
There is no such roll in the possession of this Commission.
Q Your age is 29? A Yes, sir.
Q Whom do you apply for enrollment? A Just mysefl.

1896 enrollment; page 515, #2378, William Pierce, Delaware.

Q What year were you born in?A 1871.

Com'r Needles;--The name of the applicant appears upon the census roll of 1896 and he presents a certificate of admission, certifying that one Joserphine Dawson was admitted to citizenship in the year 1883 as a citizen by blood andhe avers that he is the son of said Joserphine Dawson.
(Q How long have you lived in the Cherokee Nation? A I have lived here ever since 1883.
Q What do you mean by being out--just running around? Are you claiming the Cherokee Nation as your residence since 1883? A No, sir, I have been in Colorado
Q How long did you stay in Colorado? A Three years.
Q Did you vote there?A No, sir.
Q What other state have you been in? A In Kansas.
Q How long did you stay there? A A Year.
Q What other State? A That is all.

Interrogatories by W.W.Hastings, Cherokee Representative:

Q Where were you in 1898, two years ago? A I lived in Colorado.
Q There in June of 1898? A Yes, sir.

Q When did you move to this country, did you come here with your mother? A Yes, sir.
Q When? A 1883.
Q With the exceptions that you have heretofore noted you have been here ever since? A Yes, sir.)

Com'r Needles: Con'd:--He avers that he has been a resident since 1883, with the exception of what time he has been absent as stated. The applicant claims citizenship on account of the admission of his mother, Joserphine Dawson, in 1883. His mother having been married since that time to his father. His name appears upon the census roll of 1896 and from the fact that he was born in the year 1871, and his mother was admitted in 1883, and from the further fact that his enrollment is contested by the Representative of the Cherokee Nation on the ground that his mother was admitted by fraud, final judgment as to his enrollment will be suspended and his name will be placed upon a doubtful card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic note thereof.

J O Rosson

Subscribed and sworn to before me this 25th day of September, 1900.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 21st, 1902.

In the matter of the application of William Pierce for the enrollment of himself as a citizen by blood of the Cherokee nation.

Supplemental to D-409.

Appearances:

A. S. McKennon for Applicant.
W. W. Hastings for Cherokee Nation.

ALBERT H. DAWSON, being duly sworn, testified as follows:

Examination by Mr. McKennon.

Q. What is your name? A. Albert H. Dawson.
Q. Where do you reside? A. Afton, Indian Territory.
Q. Do you know William Pierce? A. Yes, sir
Q. Is he related to you? A. Yes, sir; cousin.
Q. Do you know how long he has resided in the Cherokee nation?
A. I don't know exactly the time they came here.
Q. About what time? A. I expect they have been here about 16 or 18 years.
Q. Has he resided here continuously since that time? A. Why, he went to Colorado. I don't know what time that was. He has been out there, I expect probably a year or two years.
Q. Do you know why he is out there? A. I think he just went out there for a trip.
Q. Has he any effects in the Cherokee nation? Did he leave any effects in the Cherokee nation? A. No, sir; I think not. He was a single man. He is dead, though, now.

Examination by the Commission.

Q. When did he die? A. I think he died in January sometime.
Q. Last January? A. Last January it was a year, I think. I wouldn't be positive.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 21st day of July, 1902.

Notary Public.

D. 409

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on ....

....

by delivering a true copy thereof on the ....day of ....A. D. 190....

Given under my hand this.................. day of..................A. D. 190.

....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the ....day of ...., 190 .

....
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a true copy of the within notice to ....

....

on the ...... day of .... A. D. 190...

....

Subscribed and sworn to before me this ....

....
Notary Public.

NOTICE!

IN THE MATTER OF the application of William Pierce for enrollment as Cherokee citizens:

Case No. D 409

To William Pierce, Afton I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on March, 17, 1902. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation.

IN THE MATTER OF THE APPLICATION OF

William Pierce

FOR ENROLLMENT AS

CHEROKEE CITIZENS

CHEROKEE. D.4

William Pierre.

April 25, 1904. Cancelled and No. 1 transferred to Cherokee R 905.

COPY OF TESTIMONY FILED WITH THE CHEROKEE NATION.

See R 324

Cher D 410

Cher D 410

D. 417

DEPARTMENT OF THE INTERIOR
COMMISSIO TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 8 1900
Acting Chairman

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 24th, 1900.

IN THE MATTER OF THE APPLICATION OF ENOS QUINN MARTIN FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN.

The said Enos Quinn Martin, being sworn and examined by Commissioner C. R. Breckinridge, testifieid as follows:

Q Give me your full name, please. A Enos Quinn Martin.
Q How old are you? A Twenty-five years old.
Q What is your post office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Just myself.
Q Do you apply as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A A quarter.
Q How long have you been in the Cherokee Nation? A I have been out and in ever since 1890.
Q Ever since 1890. A Yes, sir.
Q Were you admitted by the Cherokee Commission or Council? A Yes, sir.

THE COMMISSIONER: The applicant presents official evidence of admission to Cherokee Citizenship by the Cherokee Council in an act approved December 15th, 1890, of certain persons, and among them appears the name of Enos Lynn Martin. Do you claim that was your name at that time? A Yes, sir.
Q You think they put Lynn there instead of "Q.." A Yes, sir.
Q What is the Q in your name for? A Quinn.
THE COMMISSIONER: This is recognized as official evidence of the facts stated, and is returned to the applicant.
Q Is there any one ofyour family named Lynn? A No, sir.
Q You are the only one of your family thatcould have been meant by that? A Yes, sir.
Q You say you have been off andon here since 1890? A Yes, sir.
Q Where didyou go? A To California.
Q When did you go to California? A In 1891.
Q About how long did you stay there? A About a year.
Q That brought you back here in 1892? A Yes, sir.
Q How long did you stay here? A About three years,
Q That brought you up to 1895? A Yes, sir.
Q Then what did you do? A Then I went back to California.
Q Then how long didyou stay there? A I staid there about a year I guess.
Q And then what did you do, came back here? A Yes, sir.
Q Then how long did you stay here? That brought you up to 1896. A I staid here about one year.
Q About one year? A Yes, sir.
Q That brought you up to 1897. Then what didyou do in 1897 when you left here? A I went back again to California.
Q Andhow long did you stay there? A I staid there a little over a year.
Q That left you in California from 1897 to 1898? A Yes, sir.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 8 1900

Q And yougot back here in 1898? A Yes, sir.

Q Then how long did you stayhere? A I went back in the same year,,1898.

Q How long did you stay there? A I didn'tstay there quite a year.

Q You staid there until about 1899? A Yes, sir.

Q And where have you been since that? A I have been here in the Territory.

Q All the time since 1899? A Yes, sir.

Q Were you on the roll of 1896? A Yes, sir.

Q What were youdoing in California? A I was out there for my health, and working.

Q W..at kind of trouble have you got? What sort of ill health have you got? A Chills and ague--I mean chills and fever.

Q Did you keep up any business here while you were out there? A No, sir; my ~~mother~~ lives ~~here~~. I make this my home. My mother is here is all and I have a step father.

Q He is living here with your mother? A Yes, sir.

Q Have you got any brother's and sisters? A Yes, sir.

Q Are they back here? A Yes, sir;--that is part of them, and some of them in California.

1894 Roll, page 252, No. 2938, Eunice Martin, Cooweescoowee District.

Q Have you ever voted since you have been in California? A No, sir.

THE COMMISSIONER: The applicant is shown, with reasonable certainty to have been admitted to citizenship in 1890 bythe official document citiedin the testimony. He is identified with reasonable certainty on the roll of 1894. He is not identified on the roll of 1896. The testimony shows that theapplicant spent much of his time in California since his admission. He states this was on account of his health, and that he has considered himself always a citizen of the C^h^erokee Nation. His application will be placed upon a doubtful card, and the final decision will be communicated to him as his post office address.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 8th day of October 1900.

Commissioner.

Supl.-C.D.#410.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ENOS Q. MARTIN as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902, and that he could on said day appear and introduce any further testimony affecting his case. Receipt has xxxx not yet been acknowledged of Commission's letter to the applicant.

Mr. W. W. Hastings, Cherokee representative, present.

M. DANIELS, being duly sworn, testified as follows on part of the Cherokee Nation.
MR. HASTINGS:

Q What is your name? A M. Daniels, post office Vinita, Indian Territory.
Q What is your age? A 57.
Q I will ask you whether myself or any one under my direction got you to inquire in and about Vinita whether Enos Q. Martin lived there with reference to getting notification on him?
A Yes, sir; I had a letter from Mr. Starr.
Q He is Stenographer for the Cherokee Nation? A Yes, sir.
Q And di you make inquiries up there? A Yes, sir.
Q I will ask you if you ascertained his whereabouts?
A The information I got is that he was not there around Vinita; that he was in California.
Q How long have you lived right in and about Vinita? A I have lived there since 1877.
Q You are very well acquainted around there? A Yes, sir.

Mr. Hastings: Comes now the representatives of the Cherokee Nation and moves that the Cherokee Nation be permitted to offer proof as to the residence of Enos Q. Martin, being impossible to get service of notification upon him that testimony would be taken by the Cherokee Nation, they being advised that he is a non-resident and that he does not live in or about Vinita, the post office given by him at the time he applied for enrollment.

Commission: In view of the facts the request of the Cherokee Nation will be complied with to introduce testimony in this case.

CLARENCE TAFT, being duly sworn, testified as follows on part of Cherokee Nation:
MR. HASTINGS:

Q What is your name? A Clarence Taft.
Q What is your age? A 20.
Q What is your present post office? A Vinita, Indian Territory.
Q You knew Enos Q. Martin, the applicant? A Yes, sir.
Q Where is he? A He is in Barren, California.
Q Is he any relation to you? A Yes, sir.
Q What? A Uncle.
Q When did he

came to the Cherokee Nation last; when he came to enroll?
A Yes, sir, September 17, when you were up there in Vinita.
Q How long did he stay there? A I don't know for certain, but I should think ten days or two weeks.
Q And then he went to California? A Yes, sir.
Q Did he come from California to enroll? A Yes, sir.
Q And then he went back there? A Yes, sir.

COMMISSION:

Q Did he ever live here before he made this application for enrollment? A Yes, sir.
Q How long ago? A He came here in 1889 or '90, when we all came.
Q How long did he remain? A I don't know, probably a year or maybe over.
Q And then where did he go? A Went back to California.
Q Has he actually resided out there? A Yes, sir.

MR. HASTINGS:

Q Is he married or single man? A Single man.

Commission: The representative of the Cherokee Nation present submits this case to the Commission; and in view of the fact that the where bouts of the applicant is at present unknown, it is directed that the same be closed and reported to the Commission for final decision based upon the evidence now of record.

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J. O. Rosson, being first duly sworn, states, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee-D-410

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Enos Q. Martin for the enrollment of himself as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 24, 1900, the applicant, Enos Q. Martin, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Further testimony was submitted in this case on February 26, 1902, at Muskogee, Indian Territory.

It appears from the evidence in support of this application that Enos Q. Martin was admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council approved December 18, 1890. He is identified on the 1894 pay roll of the Cherokee Nation, page 252, No. 2938. It does not appear from the evidence in support of this application that the applicant, Enos Q. Martin, has ever removed to and in good faith settled in the Cherokee Nation or Indian Territory.

The authority of the Commission herein is defined in Par. 9, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495):

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Enos Q. Martin is not lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be refused, and

Cherokee D-410

It is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT,
J. C. STARR, SEC.

OFFICE OF
ATTORNEYS FOR CHEROKEE NATION
BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.
Please return this letter with your reply or mention this Number. F. D

Muskogee, I. T., Feb. 17, 1902.

Post Master,
San Juan, Cal.

Dear Sir:

Please advise us if there is a man by the name of Enoch, or Enos, T. Martin living at your place; and if there is such a man getting mail at your office, kindly advise me how long he has been there, and also advise me if he has his home thre, or in othr words, do you consider him a citizen of the state of California.

Yours very truly,

Attorney for the Cherokee Nation.

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF
ATTORNEYS FOR CHEROKEE NATION
BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number: F. D

Muskogee, I. T., Feb. 17, 1902.

Post Master,

San Bernadina, Cal.

Dear Sir:

Please advise us if there is a man by the name of Enoch ,or Enos T. Martin living at your place; and if thse is such a man getting mail at your office, kindly advise me how long he has been there, and also advise me if he has his home thew, in other words do you consider him a citizen of the state of California.

Yours very truly,

Attorney for the Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Chero. D-410.

Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith enclosed the decision of the Commission to the Five Civilized Tribes in the matter of the application of Enos Q. Martin for the enrollment of himself as a citizen of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. R-9.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 410.

Muskogee, Indian Territory, October 7, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 20, 1902, rejecting the application of Enos Q. Martin for the enrollment of himself as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on September 9, 1902.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R BRECKINRIDGE
—
ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-419

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 30, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission has this day transmitted to the Secretary of the Interior, for review, the record of proceedings had in the matter of the application of Samuel Frazier for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Sarah A. Frazier, and his three minor children, Caldeen, Jessie and Grace Frazier, as citizens by blood of the Cherokee Nation, together with the decision of the Commission, dated January 12, 1903, granting said application, and the protest of the Cherokee Nation against said decision, dated January 19, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Acting Chairman.

IN THE MATTER OF THE APPLICATION OF

Enos D. Martin

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 24. 1900
B - Mem^o of application " 24. 1900
C Notice of final consideration 2/26/02
D Supplemental testimony and order closing testimony, Feb. 26, 1902.

Transferred to R-683

[illegible] K

CHEROKEE CASE

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE

APPLICATION FOR ENROLLMENT

OF

Emma Q. Martin

[illegible] of the Interior,
RECEIVED
AUG 10 1902
No. 505
Indian Territory Division.

DEPARTMENT OF THE INTERIOR [illegible]
MAR 1 1904
7440

As Dl citizen. of the Cherokee Nation.

4 Encl

Muskogee, I. T., May 20th 1902

Respectfully forwarded to the Secretary of the Interior for review.

Acting Chairman.

Cher D 411

Cher D 411

K20.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUL 18 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Westville, I. T., July 17, 1900.

In the matter of the application of Robin Johnson for the enrollment of his wife and children as Cherokees; being sworn and examined by Commissioner Breckinridge, he testifies as follows:

Q What is your name? A Robin Johnson.
Q What is your age? A Forty-four.
Q What is your post-office? A Westville.
Q And your district? A Goingsnake.
Q For whom do you make application? A I am making it for my wife and children.
Q Do you make application for yourself? A No sir.
Q Is your wife a Cherokee by blood? A Yes sir.
Q How long has she lived in this Nation? A We have been living here sixteen years.
Q When were you married? A I couldn't tell you, it has been twenty-two years ago.
Q Where was your wife born? A In North Carolina. Q xxxx
Q When was she admitted to citizenship? A When the Dawes Commission was taking a list.
Q Have you got any evidence of her xxxx ever having been admitted to citizenship? A No sir.
Examined by Attorney Hastings, on behalf of Cherokee Nation:
Q You say your wife was admitted by the Dawes Commission in 1896?
A Yes sir.
Q What was her name? A Eliza Jane Sumpter, Daughter of R.O. Her application was included in the case of R.O. Sumpter.
Note: Records examined; Dawes Commission docket "A", page 17, case #98; R.O. Sumpter et als against the Cherokee Nation; filed August 26th, 1896; answer filed; application denied at Vinita Indian Territory October 12th, 1896; no appeal taken.

Com'r Breckinridge:
Q It seems that the application of your wife for admission has been heard and denied. Did you apply for the children at that time? A It was all sent up together; my father-in-law sent it all up together; he made an affidavit and sent it up.
Note: Com'r Breckinridge asks clerk if mention was made in the application of the children and clerk says there was not; that it was R.O. Sumpter et al.
Q What children have you that you want to apply for? A I haven't got but two children now.
Q Give their names and ages? A William Robert Johnson, seventeen.
Note: 1896 roll examined for this child, and name not found
Note: 1896 roll examined for Eliza Jane Johnson, and name not found
Q What is the name of your next child? A John Coleman Johnson, aged sixteen.
Note: 1896 roll examined for this child, and name not found.
Q Did you receive any communication from the Dawes Commission in regard to the application of your wife for enrollment? A No sir, no more than the receipts were sent back.
Q Did her father receive notice of the action of the Commission?
A He did before we got that return.
Q by Hastings, atty for Cherokee Nation: Did any of his folks?
A Not that ever I know of.
Com'r Breckinridge: The record shows that your wife applied as shown in the record for admission, and that she was refused by the Commission in 1896, and I am unable to find any evidence whatever here upon which to base the application for your wife or any of your children, and consequently the Commission must at this time deny her enrollment as there is no ground upon which to grant it.

Robin Johnson for his wife and

[illegible], 32

[illegible] Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the foregoing case and that the above and foregoing is a full true and complete transcript of his stenographic notes in said case.

Subscribed and sworn to before me this [illegible] day of July 1900.

Clifton R. Breckinridge
Commissioner.

D 411

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 8 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 24th, 1900.

IN THE MATTER OF THE APPLICATION OF DARIUS BRITTON TROTH FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS.

The said Darius Britton Troth, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name please. A Darius Britton Troth.
Q How old are you? A Thirty-two.
Q What is your post office? A Miles.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll, yourself? A Myself and wife and four children.
Q Are you a Cherokee by blood? A No, sir.
Q You are a white man? A Yes, sir.
Q Wife is a Cherokee is she? A Yes, sir.
Q What proportion of Cherokee blood do you claim for her?
A One-sixteenth.
Q Let me see your marriage license and certificate please.
A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated marriage license authorizing his marriage to Mrs. Susan Hart, dated October 20th, 1892, license issued by the Clerk of Going Snake District, and the certificate shows that they were married by the said Clerk of said District on the same date as that of the license. This paper is filed herewith.

Q Now, have you lived with your wife ever since you were married to her? A Yes, sir.
Q Were you ever married before? A No, sir.
Q How old is your wife now? A Twenty-five.
Q What is the name of her father? A Jesse R. Glenn.
Q White man or Cherokee? A A Cherokee.
Q Dead or alive? A Living.
Q Give me her mother's name. Margaret L.
Q Cherokee or white woman? A White woman.
Q Dead or living? A Dead.
Q How long has she been dead? A Three years, I believe-- I think it was in 1897.
Q Now, your wife's maiden name was Glenn? A Yes, sir.
Q She never married but one time before she married you?
A No, sir.
Q What was the name of her husband Hart that she married?
A Lewis.
Q White man or Cherokee? A White man.
Q You say he is living? A I don't know whether he is now or not. He was when we were married.
Q Have you a copy of the decree of divorce between them?
A No, sir.
Q What proof have you that she was divorced from that man?
A The same clerk that issued the license was clerk of the Court when the decree of divorce was granted, and he would have not issued them without he knew that.
Q Now give me the name of those children. A The first child

is a step child, her name is Maggie I. Hart.
Q How old is that child? A She was born in 1890.
Q Ten years old? A Yes, sir.
Q What is the name of the next child? A Mary M. Troth.
Q How old is she? A She was born in 1894.
Q She is six years old? A Yes, sir.
Q The next child? A Four years old.
Q What is its name? A Buena V. Troth.
Q How old is she? A Four years old.
Q The next child? A Vera L.
Q How old is that child? A She was born in 1899.
Q When did you say she married her husband Hart? A I think it was in the spring of 1898 or the winter of 1899.
Q What district were you living in in 1896? A Delaware.
Q In what district did your wife live in 1880? A Going Snake.

1880 Roll, page 455, No. 755, Susan Glenn, Going Snake District.
1896 Roll, page 546, No. 3258, Susie E. Truth, Delaware District.
1896 Roll, page 590, No. 533, Darius D. Truth, Delaware District
1896 Roll, page 483, No. 1520, Maggie I. Hart, Delaware District.
1896 Roll, page 546, No. 3259, Mary Ann Truth, Delaware District.
1896 Roll, page 546, No. 3260, Beuna V. Truth, Delaware District.

THE COMMISSIONER: The applicant applies for the enrollment of himself, his wife and four children, one being a step child and three being children of his present marriage. His wife is identified on the rolls of 1880 and 1896 as a native Cherokee. Her change of name is established by the marriage license and certificate filed herewith, and she will be listed now for enrollment as a Cherokee by blood.

The child Maggie I. Hart, a child of her former marriage is identified with her on the roll of 1896; it is living at this time and will be listed for enrollment as a Cherokee by blood.

Of the three children of the present marriage Mary M. and Beuna V. Troth are identified with their parents on the roll of 1896. They are living at this time and will be listed now for enrollment as Cherokees by blood.

When the Commission is supplied with a proper certificate of birth of the youngest child Vera L., it also will be listed for enrollment as a Cherokee by blood.

As to the applicant himself; he is shown to have married his wife in 1898 according to the Cherokee law. He is identified with her on the roll of 1896. He states that they have lived together ever since their marriage. He will be required to supply the Commission with a copy of the decree of divorce from her former husband and until this is done his application will be placed upon a doubtful card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 6th day of October 1900.

Commissioner.

D 411

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Louise V. Troth, for the enrollment of [illegible] as a citizen of the Cherokee Nation.

The applicant was notified by registered letter on January 10, 1902, that his application for enrollment as a citizen of the [illegible] [illegible] on the [illegible] day of February, 1902, and that he could on said date present whatever [illegible] [illegible] [illegible] opportunity would be given him to introduce any further testimony affecting his application.

[illegible] for the registered [illegible] of the Commission's letter [illegible] having been [illegible] three [illegible] [illegible] the [illegible] day of February, 1902, and having failed to present a showing [illegible] [illegible] the case is ordered closed and [illegible] decision on final hearing be based upon the evidence now of record.

[illegible] FIVE CIVILIZED TRIBES.
[illegible]
1902

Commissioner.

"R"

D 411

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Darius B. Troth, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 10, 1902, that his application for enrollment as a citizen of the Cherokee Nation, would be taken up by the Commission for final consideration on the 26th day of February, 1902, and that he could on said date appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any further testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

Applicant having been called three times this day, to-wit: the 26th day of February, 1902, and having failed to respond either in person or by attorney, the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 2nd, 1902.

In the matter of the application of Darius B. Troth for the enrollment of himself as a citizen by intermarriage of the Cherokee nation.

Appearances:

Applicant appears in person.
Cherokee nation by W. W. Hastings.

Supplemental to D-411.

DARIUS B. TROTH, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Darius B. Troth.
Q. How old are you? A. 33.
Q. What is your post office address? A. Miles, I. T.
Q. Where were you born, Mr. Troth? A. I was born in Hendricks county, Indiana.
Q. When did you come to the Cherokee nation? A. In 1890, December.
Q. When were you married to your Cherokee wife? A. October 20th, 1892, I believe.
Q. Where have you been living since your marriage? A. I have been living in the Cherokee nation. The first year that I was married I lived in---I was in Goingsnake and part of the time in Delaware district.
Q. Have you ever been outside of the Indian Territory for the purpose of making a home since your marriage in 1892? A. No, sir.
Q. Has your wife ever been outside of the Indian Territory since that time for the purpose of making a home? A. No, sir.
Q. Where were you living four years ago last month? A. I was living right where I do now. My post office was Miles.
Q. In the Cherokee nation? A. Yes, sir; about 15 miles northwest of Vinita.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 16 day of July, 1902.

P G Reuter
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 30, 1902.

C. R. 20

In the matter of the application of Eliza J. Johnson et al for enrollment as Cherokee citizens.

On the 12th day of July, 1900, Robin Johnson appeared before the Commission and made application for the enrollment of his wife, Eliza J. Johnson and her [illegible] children, [illegible] as citizens of the Cherokee Nation. [illegible] identified on any of the tribal rolls [illegible] in the possession of the Commission, [illegible] that they were ever admitted to citizenship in the Cherokee Nation by any of the Cherokee tribal council or Cherokee commissions, or [illegible].

It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that Eliza J. Johnson and others applied to the Commission for citizenship in the Cherokee Nation under the provisions of said act; that the application was denied by the Commission [illegible] and four children [illegible] Johnson, William H. Johnson, and John C. Johnson, [illegible] identified as the same applicants in this case.

The said Eliza J. Johnson and her four children were [illegible] by the examining [illegible] on Cherokee Roll Card [illegible] R. 20.

For the reason that neither the applicant nor her children are identified on the tribal rolls of the Cherokee Nation, [illegible] and the Commission to the Five Civilized Tribes, or by the [illegible] on appeal, it is ordered that the names of Eliza J. Johnson, William H. Johnson, and John C. Johnson be rejected for enrollment under the provisions of the act of Congress approved May 31, 1900, which [illegible] provides:

"This said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

It is ordered that copies of [illegible] testimony in the above case.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JAN 30 1902
ACTING CHAIRMAN

Commissioner.

3

R. 20.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 28, 1903.

In the matter of the application of Eliza J. Johnson et al for enrollment as Cherokee citizens.

On the 17th day of July, 1900, Robin Johnson appeared before the Commission and made application for the enrollment of his wife, Eliza J. Johnson and her two children, William R. Johnson and John C. Johnson, as citizens of the Cherokee Nation. Neither the applicant nor her children are identified on any of the tribal rolls of the Cherokee Nation now in the possession of the Commission, nor does it appear that they were ever admitted to citizenship in the Cherokee Nation by an act of the Cherokee National Council or Cherokee commissions on citizenship.

It appears from the records of the Commission made in accordance with the act of Congress approved June 10, 1896, that R. O. Sumter and others applied to the Commission for citizenship in the Cherokee Nation under the provisions of said act; that the application was denied by the Commission and no appeal taken. Embraced in said application are found the names of Eliza Jane Johnson, William R. Johnson, and John C. Johnson, who are fully identified as the applicants in this case.

The said Eliza J. Johnson and her two children were listed for rejection by the examining official on Cherokee Roll Card Field No. R. 20.

For the reason that neither the applicant nor her children are identified on the tribal rolls of the Cherokee Nation, and have never been admitted to citizenship in the Cherokee Nation by the tribal authorities, the Commission to the Five Civilized Tribes, or by the United States Court on appeal, it is directed that Cherokee Roll Card Field No. R. 20 be cancelled, and that the names of Eliza J. Johnson, William R. Johnson, and John C. Johnson be reported to the Commission for rejection under the provisions of the act of Congress approved May 31, 1900, which act provides:

> "That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

Cher.
D-411

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilised Tribes.
Muskogee, Indian Ty., Oct. 20, 1902.

In the matter of the application of Darius B. Troth as be enrolled as a citizen by intermarriage of the Cherokee nation.

Darius B. Troth, called as a witness, after first being duly sworn by the Commission, testified as follows:

Q What is your name? A Darius B. Troth.
Q How old are you? A Thirty three.
Q What is your postoffice address? A Miles, I. T.
Q Are you a white man? A Yes sir.
Q You are claiming the right to be enrolled as a citizen by intermarriage of the Cherokee nation? A Yes sir.
Q What is your wife's name? A Susan E. Troth.
Q Is she the wife through whom y u are claiming citizenship? A Yes.
Q Is she a Cherokee by blood? A Yes sir.
Q How long has she been living in the Cherokee nation? A All her life.
Q When were you married to her? A 1892.
Q Were you married under a Cherokee marriage license? A Yes, the Commission has it.
Q Is Susan your first wife? A Yes sir.
Q Are you her first husband? A No sir.
Q She had been married before? A Yes sir.
Q How often? A Once.
Q Was her first husband dead when you married her? A No sir.
Q Were they divorced? A Yes, the Commission is supplied with a copy of the decree.
Q The divorce was obtained before you married her? A Yes sir.
Q That was the only time she has ever been married? A Yes sir.
Q Have you and your wife been living together ever since you were married?
A Yes sir.
Q Never been separated, have you? A No sir.
Q And you are living together now? A Yes sir.
Q Has the Cherokee nation been your home ever since you were married?
A Yes sir.
Q You never lived anywhere else? A No sir.
Q How many children have you? A I have four (4) of my own and she had one before I married her.
Q Are they all living? A Yes sir.

-------o-------

Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane

Subscribed and sworn to before me this October 25th, 1902.

B O Jones
Notary Public.

Cherokee D-411.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Darius B. Troth as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 24,1900, Darius B. Troth appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of himself as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on July 2, 1902, and on October 20, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that the said Darius B. Troth was lawfully married on October 20, 1892, under authority of a Cherokee marriage license, to Susan Hart, a Cherokee citizen by blood, who is identified on the 1880 Authenticated Tribal Roll of the Cherokee Nation. The said Darius B. Troth is identified on the 1896 Census Roll of the Cherokee Nation.

The evidence further shows that the said Darius B. Troth has lived with his said wife in the Cherokee Nation continuously from the date of his marriage to her up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Darius B. Troth should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28,1898,(30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-411.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Darius B. Troth for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-211.

IN THE MATTER OF THE APPLICATION OF

Darius B. Groth

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 24.1900
B. Mem. of application. " 24.1900
C Notice of final consideration 2/26
D Order closing testimony, Feb. 26, 1902

See Cherokee jacket # 3416

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D412

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 25 1900

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 2[illegible], 190[illegible].

In the matter of the application of Caldeen Gunter for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Caldeen Gunter.
Q What is your age? A 2[illegible].
Q What is your post-office address? A Vinita.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A 1/32
Q For whom do you apply for enrollment? A Myself.
Q What is the name of your father? A Caldeen Gunter.
Q Is he living? A No sir, dead.
Q What is the name of your mother? A Nancy Gunter.
Q Is she living? A Yes sir.
Q How long have you been a resident of the Cherokee Nation?
A Since [illegible].
Q Your name appear upon the authenticated roll of 1880? A No sir
Q By what right do you claim citizenship? A I was admitted.
(Witness excused)
Com'r Needles: Applicant presents certificate of admission to [illegible] dated January 14 1880, signed by Roach Young President, William Harnage and [illegible] Hayes, Associate commissioners, attested by J. [illegible] Mason Clerk; the document he presents being a certified copy of the record of said certificate, same being certified to by A. T. Cunningham, Assistant Executive Secretary under the seal of the Cherokee Nation; said certificate provides that Nancy Gunter and her children shall be admitted to the rights of Cherokee citizenship. Q Is the Nancy Gunter mentioned in the certificate of citizenship that you present your mother? A Yes sir
Q How old were you on the 14th January 1880? A 6 or 7 years old.
Q In the act of the Commission on citizenship admitting your mother they admitted her children over age, did they, the adults but neglected the names of the children, the minor children? A Yes sir.
Q Are you one of the minor children? A Yes sir.
1880 roll page 57 #20 Caldean Gunter, Delaware;
1894 roll page [illegible] #117 Callie D. Gunter Delaware;

Com'r Needles: The name of Caldeen Gunter appears upon the census roll of 1880 and the pay roll of 1894; he presents a certified copy of a certificate of citizenship, issued by the Commission on Citizenship January 14, 1880, certifying that his mother Nancy Gunter and her adult children were admitted to all the rights of citizenship on the 14th day of January 1880, but he avers that the names of said Nancy Gunter's minor children do not appear in said certificate, for the reason that she was informed that it was not necessary to place the names of the minor children in the certificate; and satisfactory proof being made as to the residence of said Caldeen Gunter, but from the fact that his name is not specifically mentioned in the certificate presented, although satisfactory proof has been made that he was a minor child, of the said Nancy Gunter at the time of the admission of her the said Nancy Gunter to citizenship, final judgment as to the enrollment of said Caldeen Gunter will be suspended and his name placed upon a doubtful card.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 25 day of September 1900.

Commissioner.

C8472

COMMISSION

FILED
FEB 27 1902

ACTING CHAIRMAN

"R"

Cherokee D 412

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Caldean Gunter for enrollment as a Cherokee citizen.

Appearances:
A.S.McKennon, South McAlester, I. T., attorney for applicant, and applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 10,1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Applicant this day appears in person and by his attorney, A.S.McKennon, Esq., of South McAlester, I. T., and by special request and agreement with the representative of the Cherokee Nation the case is taken up this day for consideration.

CALDEEN GUNTER, being sworn and examined testified as follows:

BY MR. McKENNON:

Q What is your name? A Caldeen Gunter.
Q What is your age, Mr. Gunter? A 28.
Q What was your mother's name? A Nancy Gunter.
Q Is that the same Nancy Gunter whose name~~s~~ appears in the record of the Cherokee Citizenship Commission? dated January 14,1880? A Yes sir.
Q What was your age at that time? A I guess I must have been about seven years odd I guess.
Q Your name is not mentioned in that record? A No sir.
Q Have you been since that time enrolled as a Cherokee citizen? A Yes sir.
Q Have you been all the while recognized as a citizen of the Cherokee Nation? A Yes sir.
Q Have you resided in the Cherokee Nation? A Yes sir.
Q For what length of time? A I don't remember, ever since I was a boy; I don't remember the date; in '91 and '92 I went to school at Tahlequah in the Nation, and then in '94 I have been making my home at Sam Frazier's since 1894 and continuously up until my father died, and I have been out temporarily tending to his estate; I have power of attorney from the other members of the family. I still hold my residence here; I have always voted in the Territory, and I don't ever vote or sit on the jury in the state; all my effects are here in the Territory; everything I have individually is in the Territory.
Q And has been ever since you were a boy? A Yes sir, and I have a farm in Delaware District.
Q Your citizenship then has never been questioned by the Cherokee authorities? A No sir.

W.W.Hastings waives cross-examination.

BY COMMISSION: Attorney for the applicant and the representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant will be given ten days in which to file a brief in this case, a copy with the representative of the Cherokee Nation and a copy with the Commission.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902.

C. R. Breckinridge

Commissioner.

"R"

File with Cherokee D-412, Caldeen Gunter

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Nancy Gunter for enrollment as a Cherokee citizen, Cherokee D-422.

Appearances:
A.S.McKennon, South McAlester, I. T., Attorney for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 10, that her case would be taken up for final consideration by the Commission on the 26th inst. She this day appears by her attorney, A. S. McKennon, of South McAlester, I. T., and by a special request, and agreement with the representative of the Cherokee Nation the case is this day taken up for consideration.

JOHN T. GUNTER, being sworn and examined, testified as follows:

BY MR. McKENNON:

Q What is your name? A John T. Gunter.
Q What is your age? A 46.
Q Where do you live? A Vinita, Indian Territory.
Q How long have you lived in the Cherokee Nation? A Since '79.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Have you held any office in the Cherokee Nation? A Yes sir.
Q What is it? A I was member of the Cherokee Senate at one time, elected in 1895
Q Are you a son of Nancy Gunter? A Yes sir.
Q Is she living? A Yes sir.
Q About what is her age? A Near 70 years old I suppose, I don't know exactly.
Q Is she the same Nancy Gunter who was admitted to citizenship in the Cherokee Nation January 14,1880? A Yes sir, that is my mother.

BY COMMISSION: It appears from the records of the Cherokee Nation that the following record appears in the docket of the Cherokee Commission on Citizenship:

"Commission on Citizenship, Case No.5.
Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs Ann E. Chandler; J. T. Gunter and Lucy Jane Fortner,
vs
The Cherokee Nation.
(Petition for citizenship January 14,1880.)

The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee citizenship.

Roach Young, President Com.
William Harnage,
G. W. Mayes, Associate Com.
J.B.Mayes, Clerk Commission."

This entry appears upon page six.

Q Are you the same J. T. Gunter whose name appears in that record? A Yes sir.
Q Where is your mother now? A She is over in Arkansas, Benton County.

Q Did she ever reside in the Cherokee Nation? A Yes sir.

Q When? A She was born in the Old Nation.

Q Where? A In Georgia.

Q Very well, go ahead and make a statement.

BY MR. HASTINGS: I am going to object to any statement prior to this admission, because there is no need to go behind that.

Q When did she come to the Nation? A She came with the Old Settler Cherokees I think, about the year 1835, I have been told, I don't know as to that.

Q How long did she reside here then? A -

BY MR. HASTINGS: Comes now the Representative of the Cherokee Nation and protest against taking of any testimony prior to the date of the admission of the applicant to citizenship in the Cherokee Nation, to-wit: on January 14, 1880, because the same is irrelevent and immaterial. The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date was entitled to all the rights and privileges of any other Cherokee citizen, and therefore, it cannot be seen why it is pertinent to go behind that date.

BY MR. McKENNON: This being admitted by the Representative of the Nation, I withdraw the question.

Q Now then after her admission, where has she resided? A Mostly in the State of Arkansas.

Q Did she have any property in the Nation at the time she was admitted? A Yes sir.

Q What? A Horses and cattle and little improvement in Cooweescoowee District.

Q An improvement upon lands? A Yes sir.

Q Did she retain that property in the Nation after her admission?
A Yes sir.

Q Did she ever remove all of her effects out of the Nation after she was admitted? A Not after she was admitted, no sir. She has always had effects here since that time; her stock of cattle, branded "N.G."

Q Did she own a farm in the Nation? A At that time she was admitted she did not; she did after that.

Q For how long? A Well up to the present time.

Q She still holds a farm in the Cherokee Nation? A Yes sir.

Q Has she all the while been recognized as a Cherokee citizen?
A Yes sir.

Q At the time of her admission did she have living any minor children whose names were not mentioned in the record of the Commission admitting her? A Yes sir, had three children.

Q What were their names? A Amy, Nannie, Caldeen.

Q What is Amy's name now? A Amy Frazier.

Q What is the name of her husband? A Samuel Frazier. Her name is Sarah A. Frazier.

Q Is that the same Samuel Frazier whose application is numbered 419? A I suppose it is, yes sir.

Q The other sister, whose name is Nannie A., who is she now? A Mrs. James Alfrey.

Q That the wife of James S. Alfrey? A Yes sir.

Q Who is Caldeen? A He is the youngest child of Nancy Gunter.

Q Are these all residing in the Cherokee Nation now? A Yes sir.

Q How long have they resided in the Cherokee Nation? A Since '88.

Q All the while? A Yes sir. My brother has been out now attending to some business of father's estate.

Q But his residence is in the Cherokee Nation? A Yes sir.

Q Have these three since the admission of their mother been enrolled as Cherokee citizens? A Yes sir.

Q And always recognized as such? A Yes sir. Drew money in every payment; my brother Caldeen I think has voted a number of times in the Cherokee Nation; so has Mr. Frazier and Mr. Alfrey.

BY MR. HASTINGS:

Q Your mother lives in Siloam Springs, Arkansas? A Yes sir, Siloam Springs, Benton County, Arkansas.

Q She has always maintained a residence there? A Yes sir.

Q When did she first purchase an improvement in the Cherokee Nation? A In the fall of 1880.

Q Does she own the same improvement yet? A No sir, she does not own that same improvement yet.

Q What disposition was madeof the first improvement? A I sold it

Q When? A In 1882.

Q When did she acquire another one? A In 1882, right away, Delaware District.

Q The same year? A Yes sir.

Q Has she that improvement yet? A Yes sir.

Q Where is it lowated? A In Delaware District, Cherokee Nation.

Q Your father is dead, I believe? A Yes sir.

Q He died in Siloam? A Yes sir.

Q Place your mother now lives? A Yes sir.

Q Has Mrs. Alfrey continuously resided in the Cherokee Nation since 1888? A I don't know, I think maybe she has been out, once or twice.

Q Has Mrs. Frazier contiauously resided in the Nation since that time? A Yes sir.

Q Has your younger brother Caldeen? A Yes sir.

BY MR. McKENNON: I will ask that a copy of that testimony be filed with each of the cases, No.D-412, case of Caldeen Gunter, D-419, case of Samuel Frazier andothers and D-385, case of James S. Alfrey, and others.

BY COMMISSION, of Mr. McKennon: You are representing these four cases are you? A Yes sir.

BY COMMISSION: The request of the attorney for the applicants will be complied with, and the testimony made a part of the record in the cases mentioned.

Attorney for the applicant, Nancy Gunter, and Representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902.

C. R. Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory April 9th 1902.

Cherokee D 412.

In the matter of the application ofCaldeen Gunter for enrollment as a citizen of the Cherokee Nation.

Briefof the Cherokee Nation.

ooooooooooooooooooooooooooooooo

The applicant Caldeen Gunter is a son of Nancy Gunter who is listed for enrollment on Cherokee Doubtful Card No 422. His mother was readmitted to citizenship on January 14th 1880 but never perfected her citizenship by removing to and locating within the limits of the Cherokee Nation As shown in her testimony she has continuously resided in Benton County Arkansas , from the date of her readmission, where this applicant was born until the present time and where the applicants father died a short time ago; there is an elementary principal of law that the domicile of the ~~[illegible]~~ children is the domicile of the parent and if Nancy Gunter who has been enrolledon Cherokee Doubtful Card No 422 is not entitled to be enrolledas a citizen of the Cherokee Nation we can not see how under the law the Commission can enroll the applicant.

Reference is made to the proof filed in the case of Nancy Gunter Number Cherokee D 422.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Cherokee-D-412

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

4310

In the matter of the application of Caldeen Gunter for the enrollment of himself as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 25, 1900, the applicant, Caldeen Gunter, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Further evidence was submitted in this case on February 25, 1902, at Muskogee, Indian Territory.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that Nancy Gunter, the mother of the applicant, Caldeen Gunter, was admitted to citizenship in the Cherokee Nation on January 4, 1880, and that the applicant, Caldeen Gunter, was at that time a minor and that he has been a resident of the Cherokee Nation since childhood. He is identified on the 1894 Pay Roll of the Cherokee Nation, page 397, No. 1175 and on the 1896 Census Roll of the Cherokee Nation, page 373, No. 200.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Caldeen Gunter is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted, and

Cherokee-D-[illegible]12

It is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this DEC 10 1902

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Vinita I. T. December 27th 1902.

In the matter of the application of Caldeen Gunter for enrollment as a citizen of the Cherokee Nation.

Cherokee D 412.

Comes now the Cherokee Nation and moves the Commission to set aside its judgmnet rendered ~~haxxixxxxxxxxx~~ in this case on December 10th 1902 and to set the case down for further hearing at some convenient date at Vinita I. T. in order that the Cherokee Nation be permitted to introduce further testimony as to applicants residence.

The Cherokee Nation expects to prove by Samuel Frazier, ~~MaxyxFrazier~~ A. K. Wright and other witnesses that applicants father died in March 1898 and that since that time the applicant has been a continuous resident of the State of Arkansas.

This ~~affidavit~~ motion is not made for the purposes of delay but that justice be done.

Respectfully submitted,

Attorney for the Cherokee Nation.

D. 412

Caldeen Gunter

Application for enrollment as Cherokee Citizens

Brief for Applicants

A S McKennon
Atty for Applicants

Before the Honorable Commission to the
Five Civilized Tribes, at Muskogee, I. T.

In Re application of Caldeen Gunter for enrollment as a Cherokee citizen, D-412.

The record of the Cherokee Citizenship Commission, January, 14, 1880, is as follows:

> "Commission on Citizenship, Case No. 5.
> Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
> vs
> The Cherokee Nation.
> (Petition for citizenship January 14, 1880.)
>
> The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee citizenship.
>
> Roach Young, President Com.
> William Harnage,
> C. W. Mayes, Associate Com.
> J. B. Mayes, Clerk of Commission."

This judgement admits to citizenship Nancy Gunter, and her children named therein, but as the record in this case shows, the names of Amy Fanny and Caldeen, who were at that time minors, were omitted. It was the practice to admit by name the parents and their children, who were of age, omitting the names of theminor children, it being unnecessary, under Cherokee laws and customs, to mention their names in the judgement or act admitting the parents. Were this not so, the enrollment of such persons is fully provided for, authorized and required by the first paragraph of Section 21 of the Act of Congress of June 28, 1898, known as the

Curtis Act, which is as follows:

> "That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty(not including freedmen) as the only roll intended to be confirmed by this and preceeding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born sice the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

The applicant in this case, Caldeen Gunter, as shown by the record, was at the time of the admission of his mother some six or seven years of age. His name appears upon the Cherokee roll of 1894, for Delaware District, page 597, No. 1173, as Calle D. Gunter. That this was intended as the enrollment of Caldeen Gunter is not questioned. On the Cherokee roll of 1896, for Delaware District, page 973, No. 200, his name appears, properly, as Caldeen Gunter. When he appeared before the United States Commission for enrollment, September 25, 1900, he was 26 years of age. He then stated that he had been residing in the Cherokee Nation since 1892. He, therefore, settled in the Cherokee Nation as a citizen when he was 18 years of age, and he has been residing there, continuously, ever since; and "All the while recognized as a citizen of the Cherokee Nation.". He says that he has been residing in the Cherokee Nation since he was a boy, and that, in 1891 and 1892, he attended the Cherokee school at Tallequah, and has resided in the Cherokee Nation since then, continuously, until the present time, and still holds his residence there; that he always voted in the Cherokee Nation, and never voted or sat on a jury in any state. That under power of attorney from other parties he has been temporarily in the state of Arkansas looking after the estate of his father.

The record of the readmission of his mother admits that she "is a Cherokee by blood, also native born", for which reason it was "decided to admit the said Nancy Gunter and family", naming her older children; but, as before stated, omitting the names of this applicant and his two sisters, Amy and Fanny.

The testimony of John T. Gunter, in case of Nancy Gunter, D-422, is filed with, and made a part of, this case. See stestimony in said case.

There can certainly be no question as to the right of applicant to enrollment as a Cherokee citizen.

Respectfully submitted,

A S McKennon
Atty for Applicants

Cherokee D-412.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

---o---

In the matter of the application of Caldeen Gunter for enrollment of himself as a citizen by blood of the Cherokee Nation.

ORDER

-:o:-

It appears from the record in this case that a decision was rendered by the Commission on the 10th day of December, 1902, enrolling the applicant as a citizen by blood of the Cherokee Nation. Thereafter, on the 12th day of January, 1903, the Cherokee Nation filed a motion to set aside said judgment and to re-open the case for the purpose of submitting additional testimony tending to disprove the applicant's right to enrollment.

It appears, from the grounds alleged in said motion, that the same is well taken and it is, therefore, ordered by the Commission that the said motion be, and the same is hereby sustained, and the said judgment of December 10, 1902, be, and the same is hereby set aside, and that the case be re-opened for the taking of additional testimony, to be heard at the office of the Commission in Vinita, Indian Territory, at such date as may be hereafter fixed, upon notice being given by the Cherokee Nation.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby
Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

this MAR 19 1903

(SIGNED). W E Stanley
Commissioner.

[illegible]

[illegible]

CR0412

[illegible]

FILED
MAR 8 1905
COMMISSION TO FIVE TRIBES.

[illegible]

Cherokee-D-412.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, March 6, 1905.

In the matter of the application for the enrollment of Caldean Gunter as a citizen of the Cherokee Nation.

On December 10, 1902 the Commission rendered a judgment in the matter of this application, and on December 27, 1902 the Attorneys for the Cherokee Nation filed a motion to reopen the case; and on March 20, 1903, William W. Hastings, attorney for the Cherokee Nation, was notified that his motion, to reopen the case, was granted. He was then informed that he would be allowed to introduce additional testimony.

Up to this date no testimony has been offered.

HELD OPEN.

Eula Jeanes Branson, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported all proceedings had in the above entitled cause on the 6th. day of March, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 7th day of March, 1905

Myron White
Notary Public.

Cherokee D-412.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the enrollment of Caldeen Gunter, as a citizen by blood of the Cherokee Nation.

---: D E C I S I O N :---

It appears from the record in this case that on September 25, 1900, Caldeen Gunter appeared before this Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Additional proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 25, 1902. There has been filed for record in this case a copy of the testimony taken at Muskogee, Indian Territory, February 25, 1902, in the matter of the application of Nancy Gunter, for enrollment as a citizen by blood of the Cherokee Nation, Cherokee D-422, and also briefs on behalf of the applicant and the Cherokee Nation, filed on March 10, 1902, and April 10, 1902, respectively.

On December 10, 1902, the Commission rendered its decision in the matter of the above application, enrolling Caldeen Gunter as a citizen by blood of the Cherokee Nation. Thereafter, on January 12, 1903, the Cherokee Nation filed a motion to set aside said decision and to re-open the case for the purpose of submitting additional testimony tending to disprove the applicant's right to enrollment. On March 19, 1903, the Commission granted said motion and ordered that the decision heretofore rendered be set aside and that the case be re-opened for the taking of additional testimony, to be heard at the office of the Commission at Vinita, Indian Territory, upon notice being given by the Cherokee Nation. Copy of said order was forwarded to W. W. Hastings, Attorney for the Cherokee Nation, on March 20, 1903. The Cherokee Nation has, however, failed to furnish any additional evidence.

It is therefore the opinion of this Commission that its decision of December 10, 1902, wherein the application of Caldeen Gunter, for enrollment as a citizen by blood of the Cherokee Nation, was granted, should be affirmed, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
APR 19 1905

SLR

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-412.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Caldeen Gunter for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-221.

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-412

Muskogee, Indian Territory, March 20, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of an order of the Commission to the Five Civilized Tribes, dated March 19, 1903, sustaining your motion of January 12, 1903, to reopen Cherokee doubtful case D-412, Caldeen Gunter.

Your attention is called to the fact that this order gives you permission to introduce additional testimony at the office of the Commission in Vinita, Indian Territory, upon due notice being given to the applicant.

Respectfully,

Chairman.

Enc. M-250

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-412.

Muskogee, Indian Territory, April 19, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 19, 1905, adhering to its decision of December 10, 1902, granting the application for the enrollment of Caldeen Gunter as a citizen by blood of the Cherokee Nation.

You are advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnished the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Incl. S-15.

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

DEC 17

W. W. Hastings,

Muskogee, Indian Territory.

1088N

THE MATTER OF THE APPLICATI

Daldeen Gunter

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 25. 1900
B. Mem^o of application " 25. 1900
C. Notice of final consideration 2/24/0
D. Sup. testimony taken in case of Nancy Gunter 2/28/0
E. Sup. testimony and order closing testimony 2/28/1902

Receipt for testimony.
Brief for applicant

MAY 18 1905 Cancelled and transferred to 10887

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D413

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900

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Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application of Joshua W. Ellis for the enrollment of himself as a Cherokee by intermarriage; he being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q What is your full name? A Joshua W. Ellis.
Q How old are you? A I [redacted].
Q What is your post office? A Vinita.
Q Your district? A In Cooweescoowee district.
Q Whom is it that you want to have put on the roll? A Just myself.
Q Are you a Cherokee by blood? A No, sir, by adoption.
Q Have you your marriage license and certificate? A Yes, sir.
Q Are you on the roll of 1880? A I guess I am, I married in 1878.

Q Whom were you married to in 1878? A [illegible] Thornton.
Q What district were you in in 1880? A Going Snake.
Q In that same district? A Going Snake.
Q Your wife, [illegible] Thornton, is dead, is she? A Yes, sir, she is dead.
Q She was a Cherokee was she? A Yes, sir.
Q When did she die? A She died the 6th of last June.
Q This year? A Yes, sir.
Q You haven't married since her death? A No, sir; there is three years that me and her haven't lived together.
Q Just three years? A The last three years, maybe four.
Q Were you divorced from her? A No, sir, never have applied for a divorce, neither one of us that I know of, I have heard sometimes that she had applied to Council for a divorce, but I was never notified of it.
Q What was the particular cause of your separation? A It was her grandchildren, she had some money coming to her and she taken sick and we moved to her daughter's, and the difficulty came up between me and the grandchildren about the money; she drew the old settlers money.
Q Then you and your wife had something of a disagreement about that? A No, sir, but I couldn't stay there, and she, she said she couldn't leave, and she said I would have to leave and go to my home, and I went [illegible] and farmed a few acres two months.
Q That was owing to the difficulty between you and the grandchildren? A Yes, sir, there never was anything between me and her in the world, and they told me the last time I went there to never come there again.
Q How old was your wife when she died? A She was just about [illegible] months older than I was, that would make her 7[illegible].
Q Never was any abusive conduct between either one of you? A No, sir, never did in the world.
Q Have you lived in the Cherokee Nation ever since you married in 1878? A Yes, sir.

(On 1880 roll, page 42[illegible], No. 309, J. W. Ellis, Going Snake district; on 1896 roll, page 6[illegible]1, No. 64, Joshua W. Ellis.)

By W. W. Hastings, attorney for Cherokee Nation: Mr. Ellis, did you collect any strip money belonging to these children and their mother?
A Those grandchildren, no, sir.
Q You collected your wife's strip money? A I collected my wife's strip money.
Q As soon as you collected that money you left her? A No, sir, I didn't.
Q You left her soon after you got that money?
A I left her at the time that the old settlers money was drawn.
Q You left her with that money in your pocket? A No, sir, I

never seen it.

Q [illegible] did you do with it? A I never had it, I never got it.

Q Wasn't that [illegible] in the family [illegible] the fact that you had [illegible] money that you didn't turn over? A [illegible] was [illegible], they [illegible] thought I could get it, [illegible] they turned me out, but I never did have the [illegible] in my [illegible], [illegible] money, her daughter.

Q You [illegible] one [illegible]? A [illegible] in the world, [illegible] that.

Q [illegible]? A [illegible] Phillips.

Q [illegible] you left her? A I stayed [illegible] a half [illegible] Westville.

Q [illegible] for several years before [illegible]? A [illegible], I have seen her several times since but [illegible] time I [illegible] there I was told never to come [illegible] there; I [illegible], [illegible] a horse [illegible], [illegible] come [illegible].

Q [illegible] come to [illegible] to? A [illegible] I know.

Q You [illegible] invited [illegible] home [illegible] several [illegible] left [illegible]? A [illegible] just [illegible].

Q [illegible] these years after you left her? A [illegible].

(On [illegible] roll, [illegible] 74[illegible], [illegible] Ellis, [illegible] district; [illegible] on roll: [illegible] No. 6[illegible], [illegible]; was [illegible]. [illegible] no [illegible] name of [illegible] on 18[illegible]; [illegible] n,)

Q [illegible]? A [illegible].

Q [illegible]? A never in [illegible].

([illegible] al- [illegible].)

[illegible] will be [illegible] ment.

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[illegible] Jones, [illegible], says that [illegible] stenographer to the [illegible] Ellis [illegible] testimony [illegible] foregoing [illegible].

[illegible] Jones

Sworn to and subscribed before me this [illegible] 1900.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 26th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Joshua W. Ellis, Cherokee Doubtful #413.

Appearances:
W. W. Hastings for the Cherokee Nation.
W. P. Thompson for the applicant.

JESSE GLENN being sworn by Com'r T. B. Needles testified as follows for the applicant

(By Mr. Thompson)

Q What is your name? A Jesse Glenn.

Q What is your age? A 50.

Q What is your post office address? A Vinita.

Q Do you know Joshua W. Ellis? A Yes sir.

Q Do you know his wife Frances? A Yes sir.

Q I will ask you if you ever went for Joshua W. Ellis for his wife Frances? A Yes sir I did.

Q After they separated? A Yes sir

Q What provision had he made for her and under what circumstances did you go? A Mr. Ellis moved into the neighborhood where I lived, about ten miles from here in Cooweescoowee district, Cherokee Nation and after he moved up here and bought a place of me, and when he got his place he got me to go and dispose of his place down there n and get his old lady.

Q Did he have a home for her here? A Yes sir.

Q Did you go for her? A Yes sir and she was in bed sick and couldn't come.

Q Did you have a conveyance to bring here in? A Yes sir a buggy

Q At whose instance and request did you go there after her? A At Mr. J. W. Ellis'

(By Hastings)

Q When was that? A Two years last fall.

Q That was two years after the divorce was granted? A I dont know anything about that.

(By Thompson)

Q When did you say it was? A Two years—perhaps three years this fall that I was there.

FRANK ELLIS being sworn by Com'r Needles testified as follows: for the applicant:

(By Mr. Thompson)

Q What is your name? A Frank Ellis.

Q What is your age and post office address? A 30 years old, Vinita

Q Are you a son of Joshua W. Ellis? A Yes sir.

Q Did you know his wife Frances? A Yes sir.

Q Do youm when they were living togetherin Goingsnake district, Cherokee Nation? A Yes sir.

Q How near did you live to them? A I lived with hem.

Q Do you know anything about the circumstance of their separation? A Yes sir my father come back there to our home in Westville and he would go and stay an hour or two every day with here, going backwards and forwards to where his wife Frances was at Mrs. Williams for about a month, every day.

Q What was her condition at that time? A Pretty bad.

Q Well or sick? A Sick in bed.

Q Well, go ahead and state what happened? A It kept on that way until one day one of the Williams boys brought his cloths up to my house and gave them to me and said they was the old man's clothes.

Q Who was this Williams boy? A One of her grandsons.

Q Did your father ever go back to see her after that? A He went once more and the boys told him never to come back again and he never did.

Q Do you know if he was ever sent for after that? A Yes sir there was an old woman told him that his wife wanted to see him.

Q Did he ever send for her after that? A Yes sir.

Q When? A After they moved up here he sent for her.

Q Tese Williams boys were hers grandsons? A Yes sir.

(By Hastings)

Q She has been an invalid for some time? A For three or four months before that.

Q Wasn't she suffering from some sort of cancer of the womb? A Yes sir I think so.

Q She was in bed for some time? A For a month or so before that.

Q And she had been sickly before that? A Yes sir, my father had taken her to Dr. Webster before that.

Q Mr. Ellis is your father? A Yes sir.

Q This woman is your step mother? A Yes sir'

Q When did you marry? A In '93.

Q When did they separate? A In '96, same year the old settler money was paid out.

Q 2 or 3 years ago Glenn went back there to get her? A Yes sir.

Q Between '96 and 2 or 3 years ago, did your father make any effort to get her to live with him? A No sir only the time that he went to see her he told her that he would take her back.

Q Were you there then? A No sir.

Q That is just what he told you? A Yes sir.

Q You never heard of her mistreating your father did you? A No sir they always got along all right.

Q She was kind to him? A Yes sir.

Q The only thing that you know was the matter was these grand children, they caused the trouble? A Yes sir.

MARY ELLIS being sworn by Com'r Needles, testified as follows for the applicant-

(By Mr. Thompson)

Q What is your name? A Mary Ellis.

Q What is your age? A 35.

Q What is your post office? A Vinita.

Q Do you know Joshua W. Ellis? A Yes sir.

Q Did you know his wife Frances? A Yes sir.

Q How far did you live from them when they separated? A About a mile

Q Do you know anything of the circumstances of their separation?

A No sir.

Q Where were they living at the time? A At Mrs. Williams.

Q Who was Mrs. Williams? A A daughter of Frances Ellis.

Q Do you know about what time they separated? A In '96.

Q Where did Mr. Ellis stay after they separated? A At my house.

Q Did he visit her after that? A Yes sir for four weeks.

Q How often? A Part of the time he would go there two or three times a day.

Q What was her condition at that time? A She was sick.

Q He visited her 2 or 3 times every day for how long? A 3 or 4 weeks

Q Do you know why he ceased to visit her? A They wouldn't let him come there anymore.

Q Did she send his clothes back to him? A No sir, Ellis Williams brought them to the store and Tee Williams brought them to my house.

Q Who were they? A Her grand children.

Q Did he go back there any more after that A Yes sir once, they was a woman come there and said she sent for him.

(By Hastings)

Q Did Mrs. Ellis ever treat him unkind? A No sir

Q She never had anything to do about sending his clothes back so far as you know? A No sir.

Q She wasn't responsible for what the others did? A No sir.

(By Mr. Thompson) I desire to call the attention of the Commission to the law of marriage and divorce in the Cherokee Nation, Section 694.

JOSHUA W. ELLIS being sworn by Commissioner T. B Needles, testified in his own behalf;

(By Mr. Thompson)

Q What is your name? A Joshua W. Ellis.

Q What is your age? A 77.

Q What is your post office address? A Vinita.

Q Was any notice or summons of any kind ever served on you that there would be an application for divorce filed by Frances Ellis? A There never was.

Q Was there ever any summons of court or trial of this case before a court of the Cherokee Nation? A No sir.

(By the Commission)

Q What was the state of Frances Ellis health when you separated? A Bad health.

(By Hastings)

Q How long has she been in bad health before you separated? A For three years; she had been confined to her bed for three months before we separated.

(By Thompson)

Q At the time she and you separated was she in any condition to move her? A No sir.

Q Did you say anything about it to her? A She said I would have to get a place and if she ever got well she would come to me if I sent for her.

Q What was the immediate cause of your separation? A Her grand children.

(By the Commission)

Q You wasn't married to your grand children were you? A No sir.

(By Hastings)

Q You never sent for her for two years after you separated from her did you? A No sir I couldn't get a place before that, I sent for her as soon as I got a place.

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Chas. von Weise being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 8th of November, 1901.

Commissioner.

[illegible]

MAR 5 196[illegible]

[illegible]

D. 413.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of Joshua W. Ellis for the enrollment of himself as a citizen of the Cherokee Nation.

Applicant represented by W. P. Thompson, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified by registered letter February 10, 1902, that his application to be enrolled as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 26th day of February, 1902. Receipt was acknowledged of the Commission's letter and the applicant on the 26th day of February, 1902, appeared before the Commission by his attorney, W. P. Thompson, and asked that this case be continued until the 28th day of February, 1902. The applicant this day, to wit the 28th day of February, 1902, again appears by his attorney, and the case is taken up for consideration.

COMMISSION: Is there any statement you desire to make relative to this case? A Nothing further than is contained in my brief.
COMMISSION: You desire to file a brief? A Yes, sir.
There is offered by the attorney for the applicant a brief in the matter of the application of Joshua W. Ellis for enrollment as a citizen of the Cherokee Nation.

—:;—::—

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 11, 1902.

In the matter of the application
of Joshua W. Ellis for enrollment
as a citizen of the Cherokee Nation by intermarriage.

Cherokee D. 413.

Brief on behalf of the Cherokee Nation.

The applicant is a white man: he married his wife in 1879 in accordance with the laws of the Cherokee Nation: he lived with her as husband and wife until about the Year 1896, when the testimony shows their separation. The National Council on November 20th, 1896, passed an act granting a divorce upon the petition of his wife, which act contains the following language: "And whereas, the said J. W. Ellis has abandoned his wife in a helpless condition, she being confined to her bed with a fatal maladY, and has refused to support her or provide for her in anY manner, or even attend her in her last sickness as he promised in his marriage vows to do," &c., then follows with the act granting a decree of divorce and restoring his wife to her maiden name. The applicant, his son, and son's daughter alone denY the facts set forth in the preamble of this bill granting a divorce: and the charges are so serious that it would seem that it would have been necessarY for the applicant to have refuted them with disinterested witnesses. But let us see whether ~~or~~ these facts are not in part substantiated bY his own testimonY. The act saYs that she was in a helpless condition, and his testimonY shows that she had been sick quite a while: the act saYs she was confined to her bed with a fatal maladY, and he admits under oath that she had cancer of the womb: the act states he failed to support her or provide for her, and he admits under oath that after he separated from the wife of his bosom lYing on a bed of affliction, perhaps never to see her again alive, that for at least three

Years he never went to see her, and never inquired about her, and never in anYwise attempted to provide for her. This act of the National Council is further justified bY the fact that his own testimonY discloses that he had no home for her at the time she was taken sick, and she was compelled to go to her married daughter's. Her moneY drawn in 1894 was gone; she was to draw some old settler moneY that Year; and in as much as the testimonY discloses the fact that there was some dispute between Mrs. Williams, her children, and the applicant, as to who should draw this moneY; and in as much as it seems that Mrs. Williams took extra precaution to see that the applicant did not draw the old settler moneY, and in as much as this moneY was paid out bY the ~~Indian~~ United States Indian Agent ~~himself~~ we must presume that the Indian Agent himself investigated to some extent the advisabilitY of paYing this moneY to the applicant, and decided under the complaint not to do so, and paid it to Mrs. Williams, and we think therefore we are warranted in saYing that the National Council was justified in inserting in the preamble of the act that the applicant did not provide for his wife, and we think that we are justified in drawing the conclusion that he must have squandered the moneY she drew in 1894, or else the Indian Agent ~~said~~ and her relatives would not have been so cautious as to see that the applicant did not get the old settler moneY in 1896.

He admits that she was a good and kind wife to him; that she was a dutiful wife; but when this fatal maladY siezed upon her he seemed to have made no provision for her care and comfort, and she had to be taken in charge bY her daughter, Mrs. Williams, and cared for bY her grand-children. And it is little wonder that theY soon tired of his thriftlessness and want of attention, and therefore did not desire his presence. But he admits that he was to provide a place and come back for his wife: that she agreed to this. Yet under the testimonY he left that woman in that condition when she had not driven him awaY, while she was still acknowledging him as her husband, and that he went over in the vicinitY of Vinita some fiftY or sixtY miles distant or perhaps more, and for a lapse of some two or three Years he never attempted to provide a home for this woman, nor to make anY inquirY whatever as to that poor woman.s condition; no wonder that the National Council took such an extraordinarY case in hand and refused to tolerate it. Some friend must have introduced the petition for this bed-ridden woman; it must have gone in the usual course of things referred to the Committee on JudiciarY, where it is presumed that the facts were inquired into and this bill framed based upon these facts, and we must saY seems to be in accord with the testimonY even of the applicant and his own witnesses. It is an elementarY principle conceded bY counsel for applicant that all legislatures have the right to grant divorces, and the Section ~~of~~ quoted from CooleY on Constitutional Limitation admits that this divorce does not seek to interfere with anY propertY rights, and is a legislative condemnation of this man's conduct towards his wife.

One of the witnesses, Jesse Glenn, claims that he went down for her, but this was some two or three Years after the separation and after this divorce was granted, and she could not then have gone with him.

The Cherokee Council passed this act in 1896, and attention is called to the fact that upon the 1896 roll opposite the name of applicant is found "Refused bY the Commission", which is evidently a mistake, and means "refused bY the committee", because as has been developed in a number of cases the committees had the 1896 roll in charge and made some notations upon the rolls, but finallY refused to authenticate them. And it is quite certain inasmuch as this was the same council which granted the divorce that this committee knew of the granting of the divorce and therefore made the notation opposite his name as being not entitled to be enrolled as a citizen of the Cherokee Nation because of his conduct towards his diseased wife. His wife is now dead and can not appear to give testimonY against him; but before this man can be enrolled the Commission must set aside the act of Council, passed bY men unprejudiced.

In the case of Roff vs BurneY appealed to the Supreme Court of the United States from the Chickasaw Nation, the court determined that the legislature which had a right to confer citizenship had a right to take it awaY; and when this legislature decreed that this man had abandoned his wife it practicallY declared a forfeiture of this man's citizenship, which under the decision of the Supreme Court of the United States can not be questioned.

We submit that from the testimonY the National Council acted wiselY; that it acted in accordance with the evidence; and that this man who abandoned his wife upon a sick bed, and without giving her anY future attention, leaving the nieghborhood for more than 60 miles, and without making anY inquirY about her for more than two Years, so far as the testimonY shows, should not be enrolled as a citizen of this Nation. He got his rights through this woman, and having ruthlesslY forsaken her under the law he forfeited his right to be enrolled.

Respectfully submitted,

AttorneY for the Cherokee Nation.

Cher D 413

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 2, 1902.

In the matter of the application of JOSHUA W. ELLIS, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

JOSHUA W. ELLIS, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Joshua W. Ellis.
Q What is your age at this time ? A Seventy eight.
Q What is your post office ? A Vinita.
Q Are you the same Joshua W. Ellis that made application to this Commission for enrollment as an intermarried citizen of the Cherokee Nation on September 25, 1900 ? A Yes sir.
Q What is your Cherokee wife's name ? A Frances Thornton.
Q Is she living now ? A No sir.
Q When were you and Frances Thornton married ?
A Let me see; I reckon about twenty one years ago, sir.
Q Were you married prior to 1880 ? A Yes sir.
Q Were you ever married before you married Frances Thornton ?
A Yes sir.
Q How many times ? A Twice.
Q Were both your former wives white women ? A Yes sir.
Q Were they living or dead when you married Frances Thornton ?
A Both dead.
Q Had Frances Thornton ever been married prior to her marriage to you ? A Yes sir, married to Thornton.
Q How many times had she been married before ? A One time.
Q Was her husband Thornton living or dead when you marriedher ?
A He was dead.
Q You were Frances Thornton's second husband ? A Yes sir.
Q She was your third wife ? A Yes sir.
Q When did Frances Thornton die ?
A Three years this June.
Q Did you and your wife Frances live together all the time from the time of your marriage up until her death ? A No sir, we were separated at her death.
Q How long had you beenseparated?
A I suppose at her death we had been separated for two years. I wouldn't be positive about the time.
Q Where were you living when you and your wife separated ?
A We were living in Going Snake District close to Westville.
Q Were you living in the country or in the town ?
A We was living in the country at her daughter's.
Q Since the death of your wife Frances have you married again ?
A No sir.
Q Were you still a single man and a widower on the first day of September, 1902 ? A Yes sir.
Q How long have you lived in the Cherokee Nation Mr. Ellis ?
A About twenty two years, I guess, sir.
Q Have you lived here all the time for the last twenty years ?
A I have not been out of the Nation, I suppose, two weeks since I came in it.
Q Have you lived then, in the Cherokee Nation, all the time for the last twenty years ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 15, 1902.

B C Jones
Notary Public.

D#99

(Copy.)

In re-application of
Joshua W. Ellis for
Enrollment on Cherokee
Roll.

-:-:-:-:-:-:-:-:-:-:-:-

Brief in Behalf of
Applicant.

-:-:-:-:-:-:-:-:-:-:-:-

Wm. P. Thompson,
Attorney for Applicant

(Copy.)

Before the Hon. Commission of the Five Civilized Tribes.

In the Matter of the
Application of Joshua
W. Ellis for Enrollment
of himself as a citizen
of the Cherokee Nation.

Brief of Applicant.

Statement of Facts.

The sworn evidence in this case shows that applicant was married to Frankie Thornton, a Cherokee by blood, under the Laws of the Cherokee Nation in 1879; That he has lived in the Cherokee Nation ever since; That his name appears on the Roll of 1880, page 429, No. 609, J. W. Ellis, Going Snake District, and on the 1896 Roll, No. 64 page 621, Joshua W. Ellis; That he and his wife lived together until some time in 1896 or 1897 at which time the daughter and grandchildren of his wife drove him away; That he and his wife both were aged, having lived out more than the time allotted to man, being 75 or 86 years old; That they were living with the daughter and grandchildren of his wife and they brought about a separation of this aged couple, as the evidence shows that there never was any disagreement between them, and this applicant continued to visit her until the grandchildren brought his clothing to his and told him not to come any more and his wife told him it was best for him not to come; that she was sick and unable to move to another place and this aged man, who was homeless and without means, as soon as he could, made a home for her, sent for her, and she was unable to come to him; That after he had been driven away by his wife's daughter and grandchildren, they without any notice to the applicant and without his knowledge, procurred a legislative divorce for his wife, by getting a special act passed by the National Council of the Cherokee

Nation, although the laws of the Cherokee Nation provided for an action in the Circuit Courts of the Cherokee Nation where the summons must issue and be served on defendant as in other cases, giving the defendant the right to appear and defend against any grounds alleged for divorce and having a jury trial.

The evidence futher shows that these same parties who procurred this secret divorce caused a false and fraudulent entry to be made after applicant's name on the Roll of 1896 in words as follows: "Rejected by Commission."

Argument.

The first contention of applicant is that under the law that governs this Commission in the enrollment of applicants for citizenship in the Cherokee Nation he is entitled to enrollment when he shows he is on the authenticated Roll of the Cherokee Nation of 1880 as said roll has been authenticated and confirmed by acts of the National Council of the Cherokee Nation and the Act of Congress. In support of this contention we quote from the Act of Congress approved June 28, 1898, commonly known as the "Curtis Act."

Sec. 22. "That in making rolls of citizenship for the several Tribes, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceeding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon."

The language quoted is mandatory. It says in making rolls of citizenship this Commission is authorized and directed to take the roll of 1880 as already confirmed and are "authorized and directed to enroll all persons now living whose names are found on said roll." It seems from this languagethat "all persons" are entitled to be enrolled whose names are found on said roll ("not including freedmen") regardless of whether theyare Indians by blood or adoption, without distinction. The section above quoted shows conclusively that it made no distinction for the reason that its express terms makes the only exception where it says ("not including freedmen.") If there had been other or further exception it would have been so expressed when the freedmen exception was saved in express words. The general rule of law is that where the legislature understands to modify the general provisions of law by express exceptions that the law is binding in its provisions except to the exception expressively saved and is confined solely to the restriction named in the exception, Sec. 222, page 294 and the sections following on the same subject found in Southerland on Statutory Construction.

There is also one other exception which I failed to mention and that is where party is dead whose name appears on the Roll of 1880. This applicant does not come within either of these two exceptions as he is neither a freedman nor dead. This Commission is concluded when a live applicant who is not a freedman presents himself for enrollment and identifies himself as the person whose name appears on the Roll of 1880. This, this applicant has done to the entire satisfaction of any reasonable person.

Again the applicant claims to be on all the other Rolls made by the Cherokees subsequent to 1880 and he must be enrolled unless the Cherokee Nation shows fraud, which has not been done in this case.

For a further argument this applicant says that the evidence shows that he did not voluntarily desert his wife and did not abandon her but was driven away, his wife consenting to it, joining in the request for him not to come back. "The unwritten rule of law is that "that would not be desertion to which the will does not consent." Sec. 773, Bishop; Sec. 776, Vol. 1, Bishop on Marriage and Divorce, defines desertion to be "The voluntary separation of one of the married parties from the other, or a voluntary refusal to renew a suspended cohabitation, without justification either in the consent or the wrongful conduct of the other." Sec. 777, page 583, Vol. 1, Bishop on Marriage and Divorce says, Third Element. "The separation must be against the will of the party deserted." "Such party must not consent." "And beyond this, when two separate by mutual consent, there cannot be, and is not, in either, an intent to desert the other." 32 Cal. 467; 27 Tex. 390; 9 R. I. 57." "When a party makes no effort to prevent the desertion but acquiesces and appears satisfied with its continuance it is not desertion." Harold vs. Harold, Vol. 8, page 698, Lawyer's Reports Annotated; "The act of a party leaving another for cause is not desertion within the meaning of the law authorizing a divorce for desertion." Vol. 6, page 137, Lawyer's Reports Annotated.

I submit the proof shows abundantly that this applicant never left his wife voluntarily, but that he was driven away by his wife's daughter and grandchildren, that he visited her afterwards until they brought his clothes to him and ordered him to stay away; That his wife told him also to stay away and immediately on account of her age, was wrought upon by her relatives to apply to the Cherokee Council for an act divorcing her from him, a proceeding which was not known to applicant, for we find him, in ignorance of this Act of Council, after he had prepared a home for her, sending a buggy by one of the witnesses for her. We find the applicant an old man, 76 or 77 years old, turned out of house and home by his wife's relatives and by her consent, as is too often the case, penniless, going to work and making a home for ~~her~~ bring hid wife to, and sending for her as soon as he gets his home. This the evidence discloses, and more, they harass and try to keep him of the Roll of 1896 by making or procuring the false and fraudulent entry after his name, that he had been rejected by the commission, when the records of the Commission show the same to be a willful falsehood.

This brings us to the last proposition. The act of Council granting the divorce. This act was without authority as it was especially prohibited from exercising judicial power under Sec. I and II, Art. II, Cherokee Constitution and hence of no effect. "The right to grant a divorce is a Judicial Act in those cases under which the general laws confer on the courts power to adjudicate; and that consequently in those the legislature cannot pass special laws, but its full control over the relation of marriage will leave it at liberty to grant divorces in other cases, for such causes as shall appear to its wisdom to justify them." Cooley's Constitutional Limitations,page 131, Sections 693, 694 and 695, Compilled Laws of the Cherokee Nation 1892 read as follows: "Adivorce from the bonds of matrimony may be adjudged by the Circuit Courts of this Nation, on action brought in the district where the parties or one of them resides, on application by petition or complaint of the aggrieved party."

"Actions for divorce shall be conducted in the same manner as other actions in courts, and the court shall have the power to enforce its judgments as in other cases; andwhen a judgment ~~from~~ of divorce from the bonds of matrimony is granted in this Nation by a court of competent authority, such judgment shall fully and completely dissolve the marriage contract as to both parties."

"A divorce from the bonds of matrimony may be adjudged for either of the following causes, viz; for adultry, for imprisonment for three years or more, for willful desertion and

and neglect for theterm of one year next proceeding the filing of the complaint or petition; for extreme cruelity, whether by violence or by other means, and for habitual drunkness for one year immediately preceding the filing of the complaint or petition."

Thus it is seen that the general law conferred the right on the Circuit Courts of the Cherokee Nation to grant the divorce after trial had and judgemnt rendered and the Council could not constitutionally pass a special act granting a divorce. There are numerous decisions that deny the authority of these special legislative enactments, and declare the act of divorce to be in its nature judicial, and not properly within the province of the legislative power. Bingham vs. Miller, 17 Ohio 445; Clark vs Clark, 10 N. H. 380; Ponder vs Graham, 4 Fla. 23; State vs Fry, 4 Mo. 120; Bryson vs. Campbell, 12 Mo. 498. Bryson vs. Bryson, 17 Mo. 590 and 44 Mo. 232. It is safe to say as a general proposition of law that the weight of authority is against the rightfulness of special legislative divorces.

Page 132 and 133, Cooley's Constitutional Limitations says: "The force of a legislative divorce must in any case be confined to a disolution of therelation; it can only be justified on the ground that it merely lays down a rule of conduct for the parties to observe towards each other for the future. It cannot inquire into the past, with a view to punish the parties for their offences against the marriage relation, except as far as the divorce itself can be regarded as a punishment. It cannot order the payment of alimony, for that would be a judgment; it cannot adjudge upon conflicting claims to property between the parties, but it must leave all question of this character to the courts. "Thus it can be clearly seen that there has been a great imposition practised on this aged applicant. That he was never summoned nor notified, nor did he ever have a chance to defend against the charge made against him. If this cause had been instituted in the Circuit Court of Going Snake Didtrict under the general laws as above quoted he could have had notice, answered, met the charge by competent evidence before the court and had a jury of his peers to pass on the truth of the allegation, which under the law quoted in this brief, he was entitled to demand and expect, the result would have been entirely different. But they applied secretly to Council for a special enactment, after Council under the general provisions of law as above quoted had conferred full, complete and exclusively original jurisdiction upon the Circuit Courts, which shows fraud on the face of it. Council had no right to act and this special act is void under the authorities above quoted is the conclusion at which we are compelled to arrive. If applicant had forfieted his rights, no forfieture has been declared as required under Sec. 66, Compiled Laws of the Cherokke Nation, 1892. And under the law and sworn evidence in this case I respectfully submit the applicant is entitled to enrollment.

Respectfully submitted.

Attorney for Applicant.

Richd Holland.

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And whereas the said J. N. Ellis has abandoned his wife in a helpless condition, she being confined to her bed with a fatal malady & has refused to support or provide for her in any manner or even to attend her in her last sickness as he promised in his marriage vows to do

Nov. 25 1896 -

TTER OF THE APPLICATION OF

Joshua W. Ellis

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1 Original testimony - September 25, 1900
2 Memo of application " 25, 1900
Certified copy - act of Council pronouncing divorce
5 Attorney's receipt for testimony
Supplementary testimony Oct. 26/1901

7 Notice of final consideration 2/26/02
Brief of applicant
Order closing testimony, Feb. 28, 1902

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 2[illegible] 1908

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 25, 1900.

In the matter of the application of Rebecca Condry for the enrollment of herself and three children as Cherokees by blood, and her husband as a Cherokee by intermarriage; [illegible] being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q Give me your full name? A Rebecca Condry.
Q How old are you? A 35.
Q What is your post office? A Catale.
Q What district do you live in? A I live in Cooweescoowee district.
Q Who is it you want to have put on the roll? A Myself and my husband and my children.
Q You claim to be a Cherokee? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A [illegible] blood on my father's side 1/4.
Q Your husband is a Cherokee or a white man? A He is a white man.
Q How long have you lived in the Cherokee Nation? A 16 years I guess.
Q Were you admitted by the Cherokee Commission? A Yes, sir, [illegible].
Q Have you had your [illegible]? A No, sir.
Q [illegible] of [illegible] with [illegible] of your [illegible]? A No, sir, [illegible].
Q What was your father's name? A John [illegible] Welch.
Q [illegible]? A [illegible].
Q Dead or alive? A [illegible].
Q Your mother's name? A [illegible].
Q [illegible]? A Yes, sir.
Q Cherokee or white woman? A Cherokee.
Q Dead or alive? A She is living.
Q [illegible] Welch now? A No, sir, her name is [illegible].
Q [illegible] were you married to your husband? A In 1891.
Q [illegible]? A No, sir.
Q Well, [illegible] the copy of your marriage license and certificate now? Has your husband lived with you ever since you were married in 1891? A Yes, sir.
(The applicant presents a marriage license issued by the Clerk of [illegible] district [illegible], 1891, permitting marriage between William R. Condry and Mrs. Rebecca Holland. The endorsed certificate shows that they were united in marriage by the Clerk of [illegible] district on May 19, 1891. This document is filed herewith.)
Q Your husband's name is William R. Condry; that is right, is it?
A Yes, sir.
Q What was the name of your first husband? A John Holland.
Q When did you marry him? A I don't remember now.
Q You have [illegible]; it was before 1891? A In about 1887.
Q Is he a Cherokee or a white man? A He is a Cherokee.
Q Is he dead or alive? A He is living.
Q When did you quit living with him? A We lived only a short time.
Q You separated about 1888 then? A Yes, sir.
Q Have you ever had a divorce from him? A Yes, sir.
Q Have you a copy of the decree of divorce? A Yes, sir, it is at home.
Q When were you divorced from him? A In the spring of 1891.
Q What time in the spring; in the early spring? A Yes, sir.
Q You say you were admitted to Cherokee citizenship 16 years ago?
A Yes, sir.

William Robert Condry, being sworn and examined by Commissioner Breckenridge, testified as follows:

Rebecca Condry - 2.

Q Give your full name? A William Robert Condry.
Q How old are you? A [illegible] years old last January.
Q What is your post office? A [illegible].
Q You are the husband of this applicant here? A Yes, sir.
Q You [illegible] to her [illegible] have you? A Yes, sir, [illegible] 1881.
Q Have you ever been [illegible]? A No, sir.
Q You [illegible] lived [illegible] together since [illegible] your [illegible], have you? A Yes, sir.
Q [illegible]? A Yes, sir.

[illegible] Condry, [illegible]:
Q [illegible] name of your child? A [illegible] Condry, [illegible].
Q [illegible] living [illegible], is it? A Yes, sir.
([illegible] roll, [illegible] roll, [illegible] No. 197, [illegible].)
Q [illegible]? A [illegible].

[illegible] citation. [illegible] which. [illegible] ion [illegible] the doubtful [illegible] found in [illegible]. [illegible] applicant [illegible] 1881. [illegible] 1881, [illegible] the [illegible] on [illegible] living [illegible] on [illegible] duly established, [illegible] will be [illegible] doubtful [illegible]. [illegible] S., [illegible] will [illegible] dependent upon the [illegible] of [illegible].

[illegible] C. Jones, being duly sworn, says that as stenographer to the [illegible] to the [illegible] correctly [illegible] the [illegible] testimony [illegible] true [illegible] notes thereof.

Omar C. Jones

Subscribed and sworn to before me this [illegible] day of [illegible], 1900.

Commissioner.

D-414.

Department of the Interior.
Commissioner to the Five Civilized Tribes.
Chelsea, I. T., November 17, 1900.

Commissioner Breckinridge-

Now appears before the Commission William R. Condry who made application, Card D.-414, for the enrollment of himself and family, and he files an official copy of the records of the Commission on Citizenship of the Cherokee Nation, showing that on the 28th of April, 1887, Rebecca Welch is readmitted to Cherokee citizenship as a Cherokee by blood. This is filed now with his case. He also presents an official copy of decree of divorce showing that on May 12, 1891, divorce was granted to Rebecca Holland from her husband, John Holland, and said John Holland was given the custody of the child. The decree being rendered and signed by George W. Benge, Circuit Judge, of the Northern Judicial Circuit, Cherokee Nation. This is filed herewith. Attention is called to the fact that the date of the decree of divorce is May 12, 1891, and the date of the marriage license is September 30, 1890, and relates to the marriage between William R. Condry and his present wife.

Q It seems you got your marriage license out a long time before you were married? A I did.
Q You weren't married until May 15, 1891? A Yes sir.
Q And you got your license out some eight months before your wife was divorced from her former husband? A It must have been; I did not know it at that time. She didn't get her divorce from Tahlequah until then.

This will be filed with Case D-414.

E.G.Rotheberger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes in said case.

E. G. Rothenberger

Subscribed and sworn to before me this 17th day of November, 1900.

~~NOTARY PUBLIC~~
Commissioner.

CK414

FILED
MAR 4 1902

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Cherokee D 414

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of William R. Condry for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Applicant in person, and by agent, Jo.R.Sequichie,
of Chelsea, I. T.
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 10,1902, that his case would be taken up for final consideration on the 26th day of February,1902, and he this day appears in person and by his agent, J.R.Sequichie, of Chelsea, I. T., and requests that his case be taken up at once. By the agreement between the applicant his attorney and the representative of the Cherokee Nation present this request is complied with.

BY MR. SEQUICHIE: He would like to make a correction in his case, and I will ask him the question that is in there and it will show up all right, that he applied for the decree of divorce and it was not issued by the authorities until after he was married this time; it shows that the decree was issued after he married his second wife, but the judgment had been rendered before, so that there would be no misunderstanding.
BY COMMISSION of Mr. Sequichie:
You submit the case to the Commission for final consideration?
A Yes sir.

BY COMMISSION: The agent for the applicant, and the representative of the Cherokee Nation present submit this case to the Commission for final consideration, and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record.

---- ----

M.D.Green,being first duly sworn,statesthat as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

Cherokee-D- 414

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Rebecca, Joseph S. and Georgia A. Condry as citizens by blood of the Cherokee Nation, and for the enrollment of William R. Condry as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 28, 1900, Rebecca Condry appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and her minor child, Joseph S. Condry as citizens by blood of the Cherokee Nation, and for the enrollment of her husband, William R. Condry, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Chelsea, Indian Territory on November 17, 1900, and at Muskogee, Indian Territory, on February 25, 1902.

The records of the Cherokee Nation in possession of this Commission show that Rebecca Condry was admitted to citizenship in the Cherokee Nation on April 28, 1887 under the name of Rebecca Welch; and that she is identified on the 1896 Census Roll of the Cherokee Nation.

The evidence further shows that William R. Condry was married to his wife, Rebecca, on May 13, 1891 under authority of a Cherokee marriage license issued September 20, 1890. The marriage appears to have taken place about eight months after the license was issued, but this Commission knows of no law of the Cherokee Nation rendering a marriage license void for lapse of time.

The said William R. Condry is identified on the 1896 Census Roll of the Cherokee Nation.

It further appears that Rebecca Condry had been previously married to one John Holland, from whom she was divorced on May 12, 1891

The minor child, Joseph S. Condry, is identified on the 1896 Census Roll of the Cherokee Nation.

On June 10, 1901, there was filed with this Commission an affidavit duly executed on June 4, 1901, from which it appears that Georgia A. Condry was born on February 19, 1901; that she is the child of William R. and Rebecca Condry, and that she was living at the date of the execution of the affidavit.

The evidence further shows that Rebbeca Condry had resided in the Cherokee Nation sixteen years next before the application herein and that her husband has resided with her in said nation since his said marriage.

The evidence further shows that the said William R. Condry and Rebecca Condry were residents of the Cherokee Nation at the date of the application herein, and it is considered that the residence of the children is that of the parents.

It is, therefore, the opinion of this Commission that Rebecca Condry, Joseph S. Condry and Georgia A. Condry should be enrolled as citizens by blood of the Cherokee Nation, and that William R. Condry should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats.,495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner

Muskogee, Indian Territory,
this AUG 11

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 22 1902

ACTING CHAIRMAN

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Cher D 414

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 13, 1902.

In the matter of the application of WILLIAM R. CONDRY, for the enrollment of himself as a citizen by intermarriage, his wife, REBECCA CONDRY, and his children, JOSEPH S., GEORGIA A. and LOLA BIDDY CONDRY, as citizens by blood, of the Cherokee Nation:

WILLIAM R. CONDRY, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A William R. Condry.
Q What is your age at this time ? A Thirty seven, I believe.
Q What is your post office ? A Miami.
Q Are you the same William R. Condry that applied to the Commission for enrollment as an intermarried citizen in September, 1900 ? A At Vinita ?
Q I suppose so. A Yes sir.
Q What is your wife's name ? A Rebecca.
Q Is she a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q When were you married to your wife Rebecca ?
A In May, 1891.
Q Were you ever married prior to your marriage to Rebecca ?
A No sir.
Q Was she ever married before you married her ? A Yes sir, her first husband's name was Hollin.
Q Was she only married once before she married you ? A Yes sir.
Q Was he a Cherokee ? A Said to x be.
Q Was he living or dead when she married you ?
A He was living.
Q Had your wife been divorced from him ? A Yes sir.
Q Have you filed the decree of divorce ? A Yes sir.
Q You are her second husband ? A Yes sir.
Q She is your first wife ? A Yes sir.
Q Have you and your wife Rebecca lived together all the time from the time you were married until now ? A Yes sir.
Q Never been separated ? A No sir.
Q Were you and she living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q Is your wife living ? A Yes sir.
Q Are these children your children by your wife Rebecca ? Joseph S and Georgia A., are they both your children by your wife Rebecca ?
A Yes sir; and I have another one.
Q Are these two children living ? A Yes sir.
Q Have they lived here in the Cherokee Nation all their lives ?
A Yes sir.
Q How long has your wife lived in the Cherokee Nation ?
A I can't tell you.
Q All the time since you were married in 1891 ? A Yes sir.
Q You say you have a third child ? A Yes sir.
Q What is it's name ? A Lola Biddy.
Q When was that child born ? A The 28th of August.
Q August, 1902 ? A Yes sir.
Q You are sure it was in August and not in September ?
A It was the 28th day of August.
Q You will have to furnish the Commission with the affidavit of your wife as to the birth of the child.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 22, 1902.

B C Jones
Notary Public.

Cherokee D-414.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Rebecca, Joseph S., Georgia A., and Lola Biddy Condry as citizens by blood of the Cherokee Nation, and for the enrollment of William R. Condry as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, Rebecca Condry appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and her minor child, Joseph S. Condry as citizens by blood of the Cherokee Nation, and for the enrollment of her husband, William R. Condry, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Chelsea, Indian Territory, on November 17, 1900, and at Muskogee, Indian Territory, on February 25, 1902, and again on October 13, 1902.

The records of the Cherokee Nation in possession of this Commission show that Rebecca Condry was admitted to citizenship in the Cherokee Nation on April 28, 1887 under the name of Rebecca Welch and that she is identified on the 1896 Census Roll of the Cherokee Nation.

The evidence further shows that William R. Condry was married to his wife, Rebecca, on May 15, 1891 under authority of a Cherokee marriage license issued September 20, 1890. The marriage appears to have taken place about eight months after the license was issued, but this Commission knows of no law of the Cherokee Nation rendering a marriage license void for lapse of time.

The said William R. Condry is identified on the 1896 Census Roll of the Cherokee Nation.

It further appears that Rebecca Condry had been previously married to one John Holland, from whom she was divorced on May 12, 1891.

The minor child, Joseph S. Condry, is identified on the 1896 Census Roll of the Cherokee Nation.

The evidence further shows that Georgia A. Condry, and Lola Biddy Condry were born to William R. and Rebecca Condry after the Cherokee Census Roll of 1896 had been taken. They are duly identified by birth affidavits made a part of the record herein.

The evidence further shows that Rebecca Condry has resided continuously in the Cherokee Nation for sixteen years, and that her husband, William R. Condry, has lived with her in the Cherokee Nation continuously from the date of his marriage to her up to and including September 1, 1902. The residence of the children has been continuous in the Cherokee Nation from birth up to and including the date of the application herein.

It is, therefore, the opinion of this Commission that Rebecca Condry, Joseph S. Condry, Georgia A. Condry and Lola Biddy Condry should be enrolled as citizens by blood of the Cherokee Nation, and that William R. Condry should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED. Tams Bixby.
Acting Chairman,

SIG. T. B. Needles.
Commissioner.

Dated at Muskogee, Indian Territory, C. R. Breckinridge.
Commissioner.

this DEC 10 1902

COMMISSIONERS:
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 414.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Rebecca Condry for the enrollment of herself and her minor children, Joseph S. and Georgia A. Condry, as citizens by blood of the Cherokee Nation, and for the enrollment of her husband, William R. Condry, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 37.

COMMISSIONERS:
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

[illegible]

REFER IN REPLY TO THE FOLLOWING
Cherokee D-414.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Rebecca Condry for the enrollment of herself and her minor children, Joseph S., Georgia A. and Lola Biddy Condry, as citizens by blood, and for the enrollment of her husband, William R. Condry, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-237.

N THE MATTER OF THE APPLICATION O

William R. Conday et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 25. 1900
B. Memo of application - " 25. 1900
C. Marriage License and certificate
D. Additional testimony - November 17. 1900
E. Certified copy of order of readmission
F. " " decree of divorce
G. Birth certif of Georgia A Conday

Notice of final consideration 2/24/02
Receipt for testimony
Order closing testimony, Feb. 25, 1902
Canc[illegible]
to Ch[illegible]

E

Cher D 415

Cher D 415

DH15

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
CHAIRMAN

Doubtful as to wife, Margaret.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., [illegible] 1900.

In the matter of the application of Nathan Lafayette Marlin for the enrollment of himself and wife as [illegible] being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Nathan Lafayette Marlin.
Q How old are you? A 53 years old.
Q What is your post-office address? A Vinita,
Q What district do you live in? A Cooweescoowee,
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir
Q What degree of blood do you claim? A One-sixteenth,
Q For whom do you apply? A Myself and wife,
Q What is the name of your wife? A Margaret,
Q Is she a citizen by blood? A No sir
Q When did you marry her? A 1872.
Q She is living is she. A Yes sir
Q Been living with you since your marriage? A Yes sir.
I was accused of taking a reservation and wasn't put on the 1880 roll; I was accused of taking a reservation of 300 acres of land.
Q Did you take it? A No sir.
Q You present a certificate of the Commission on citizenship dated Tahlequah September 14 1880 signed by Roach Young President and William [illegible] and D. W. Mayes, Assistant [illegible] attested by J. B. Mayes Clerk, certifying that Lafayette Marlin was admitted to all the rights and privileges of a Cherokee citizen on the 14th day of ~~[illegible]~~ September 1880; are you the identical Lafayette Marlin mentioned in the certificate which you present here
A Yes sir.
Q How long have you been living in the Cherokee Nation? A I have been living in the Cherokee Nation I moved when they taken their reservations up there in '66
Q Does your wife's name appear upon the roll of 1896? A No sir I moved off the neutral lands in 1887 and I have been here ever since.
Q Have you any proof of marriage to your wife. A No sir I was married in Joplin, Missouri; the law didn't require any license and I never got none.
Q It required a certificate of marriage? A The fellow said whenever we wanted it they would send it to us; I don't know whether I could get it all because the courthouse burned and all the records burned.
Q Your wife is a non-citizen? A Yes sir.

L.W. BUFFINGTON, being sworn and examined by Com'r Needles states

Q What is your name? A L. W. Buffington.
Q What is your age? A 48
Q What is your post office? A Vinita.
Q Do you know Nathan Lafayette Marlin? A Yes sir.
Q Do you know his wife, Margaret? A Yes sir.
Q Do you know whether they have been living together continuously as man and wife for any length of time? A Yes sir.
Q How long? A Ten or 12 years.
Q Recognized as man and wife, are they by the community? A Yes sir
1880 roll page 178 #2210 Lafayette Marlin Cooweescoowee;
1896 roll page 305 #[illegible] Margaret Marlin Cooweescoowee.
Q You were married in 1872? A Yes sir.
Q And your wife wasn't [illegible] with you? A No sir.
Q You haven't been married to her since that? A No sir.

Com'r Needles: The name of Nathan F. Marlin appears upon the [illegible] Parkin as of

[illegible] will [illegible] of his [illegible] [illegible] in the [illegible] [illegible] of land and [illegible] [illegible] for enrollment [illegible] as to the enrollment of the child, [illegible], will be [illegible]; [illegible] in the year 18[illegible] and he [illegible] admitted to [illegible] in the year 18[illegible].

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 28 day of [illegible] 1900.

Commissioner.

CD 415

BY MR. HASTINGS:

Q Your mother lives in Siloam Springs, Arkansas? A Yes sir, Siloam Springs, Benton County, Arkansas.

Q She has always maintained a residence there? A Yes sir.

Q When did she first purchase an improvement in the Cherokee Nation? A In the fall of 1880.

Q Does she own the same improvement yet? A No sir, she does not own that same improvement yet.

Q What disposition was made of the first improvement? A I sold it

Q When? A In 1882.

Q When did she acquire another one? A In 18[illegible], right away, Delaware District.

Q The same year? A Yes sir.

Q Has she that improvement yet? A Yes sir.

Q Where is it located? A In Delaware District, Cherokee Nation.

Q Your father is dead, I believe? A Yes sir.

Q He died in Siloam? A Yes sir.

Q Place your mother now lives? A Yes sir.

Q Has Mrs. Alfrey continuously resided in the Cherokee Nation since 1888? A I don't know, I think maybe she has been out, once or twice.

Q Has Mrs. Frazier continuously resided in the Nation since that time? A Yes sir.

Q Has your younger brother Caldeen? A Yes sir.

BY MR. McKENNON: I will ask that a copy of that testimony be filed with each of the cases, D-412, case of Caldeen Gunter, D-419, case of Samuel Frazier andothers and D-315, case of James S. Alfrey, and others.

BY COMMISSION, of Mr. McKennon: You are representing these four cases are you? A Yes sir.

BY COMMISSION: The request of the attorney for the applicants will be complied with, and the testimony made a part of the record in the cases mentioned.

Attorney for the applicant, Nancy Gunter, and Representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 23,1902.

C. R. Breckinridge

Commissioner.

Cherokee Nation

"R"

File with Cherokee D- 429, Samuel [illegible] et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Nancy Gunter for enrollment as a Cherokee citizen, Cherokee D-422.

Appearances:
A.S.McKennon, South McAlester, I. T., Attorney for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 10, that her case would be taken up for final consideration by the Commission on the 26th inst. She this day appears by her attorney, A. S. McKennon, of South McAlester, I. T., and by a special request, and agreement with the representative of the Cherokee Nation the case is this day taken up for consideration.

JOHN T. GUNTER, being sworn and examined, testified as follows:
BY MR. McKENNON:
Q What is your name? A John T. Gunter.
Q What is your age? A 46.
Q Where do you live? A Vinita, Indian Territory.
Q How long have you lived in the Cherokee Nation? A Since '79.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Have you held any office in the Cherokee Nation? A Yes sir.
Q What is it? A I was member of the Cherokee Senate at one time, elected in 1895
Q Are you a son of Nancy Gunter? A Yes sir.
Q Is she living? A Yes sir.
Q About what is her age? A Near 70 years old I suppose, I don't know exactly.
Q Is she the same Nancy Gunter who was admitted to citizenship in the Cherokee Nation January 14,1880? A Yes sir, that is my mother.

BY COMMISSION: It appears from the records of the Cherokee Nation that the following record appears in the docket of the Cherokee Commission on Citizenship:

"Commission on Citizenship, Case No.3.
Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
vs
The Cherokee Nation.
(Petition for citizenship January 14,1880.)

The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Karrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privilages of Cherokee citizenship.

Roach Young, President Com.
William Harnage,
G. W. Mayes, Associate Com.
J.B.Mayes, Clerk Commission."

This entry appears upon page six.

Q Are you the same J. T. Gunter whose name appears in that record? A Yes sir.
Q Where is your mother now? A She is over in Arkansas, Benton County.

Q Did she ever reside in the Cherokee Nation? A Yes sir.
Q When? A She was born in the Old Nation.
Q Where? A In Georgia.
Q Very well, go ahead and make a statement.

BY MR. HASTINGS: I am going to object to any statement prior to this admission, because there is no need to go behind that.

Q When did she come to the Nation? A She came with the Old Settler Cherokees I think, about the year 1835, I have been told, I don't know as to that.
Q How long did she reside here then? A -

BY MR. HASTINGS: Comes now the Representative of the Cherokee Nation and protest against taking of any testimony prior to the date of the admission of the applicant to citizenship in the Cherokee Nation, to-wit: on January 14, 1880, because the same is irrelevent and immaterial. The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date was entitled to all the rights and privileges of any other Cherokee citizen, and therefore, it cannot be seen why it is pertinent to go behind that date.

BY MR. McKENNON: This being admitted by the Representative of the Nation, I withdraw the question.

Q Now then after her admission, where has she resided? A Mostly in the State of Arkansas.
Q Did she have any property in the Nation at the time she was admitted? A Yes sir.
Q What? A Horses and cattle and little improvement in Cooweescoowee District.
Q An improvement upon lands? A Yes sir.
Q Did she retain that property in the Nation after her admission? A Yes sir.
Q Did she ever remove all of her effects out of the Nation after she was admitted? A Not after she was admitted, no sir. She has always had effects here since that time; her stock of cattle, branded "N.G."
Q Did she own a farm in the Nation? A At that time she was admitted she did not; she did after that.
Q For how long? A Well up to the present time.
Q She still holds a farm in the Cherokee Nation? A Yes sir.
Q Has she all the while been recognized as a Cherokee citizen? A Yes sir.
Q At the time of her admission did she have living any minor children whose names were not mentioned in the record of the Commission admitting her? A Yes sir, had three children.
Q What were their names? A Amy, Nannie, Caldeen.
Q What is Amy's name now? A Amy Frazier.
Q What is the name of her husband? A Samuel Frazier. Her name is Sarah A. Frazier.
Q Is that the same Samuel Frazier whose application is numbered 419? A I suppose it is, yes sir.
Q The other sister, whose name is Nannie A., who is she now? A Mrs. James Alfrey.
Q That the wife of James S. Alfrey? A Yes sir.
Q Who is Caldeen? A He is the youngest child of Nancy Gunter.
Q Are these all residing in the Cherokee Nation now? A Yes sir.
Q How long have they resided in the Cherokee Nation? A Since '88.
Q All the while? A Yes sir. My brother has been out now attending to some business of father's estate.
Q But his residence is in the Cherokee Nation? A Yes sir.
Q Have these three since the admission of their mother been enrolled as Cherokee citizens? A Yes sir.
Q And always recognized as such? A Yes sir. Drew money in every payment; my brother Caldeen I think has voted a number of times in the Cherokee Nation; so has Mr. Frazier and Mr. Alfrey.

BY MR. HASTINGS:

Q Your mother lives in Siloam Springs, Arkansas? A Yes sir, Siloam Springs, Benton County, Arkansas.

Q She has always maintained a residence there? A Yes sir.

Q When did she first purchase an improvement in the Cherokee Nation? A In the fall of 1880.

Q Does she own the same improvement yet? A No sir, she does not own that same improvement yet.

Q What disposition was madeof the first improvement? A I sold it

Q When? A In 1882.

Q When did she acquire another one? A In 1882, right away; Delaware District.

Q The same year? A Yes sir.

Q Has she that improvement yet? A Yes sir.

Q Where is it located? A In Delaware District, Cherokee Nation.

Q Your father is dead, I believe? A Yes sir.

Q He died in Siloam? A Yes sir.

Q Place your mother now lives? A Yes sir.

Q Has Mrs. Alfrey continuously resided in the Cherokee Nation since 1888? A I don't know, I think maybe she has been out, once or twice.

Q Has Mrs. Frazier continuously resided in the Nation since that time? A Yes sir.

Q Has your younger brother Caldeen? A Yes sir.

BY MR. McKENNON: I will ask that a copy of that testimony be filed with each of the cases, No.D-412, case of Caldeen Gunter, D-419, case of Samuel Frazier andothers and D-355, case of James S. Alfrey, and others.

BY COMMISSION, of Mr. McKennon: You are representing these four cases are you? A Yes sir.

BY COMMISSION: The request of the attorney for the applicants will be complied with, and the testimony made a part of the record in the cases mentioned.

Attorney for the applicant, Fancy Gunter, and Representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26,1902.

C. R. Breckinridge.

Commissioner.

D415

Cherokee D-415.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Margaret Harlin for enrollment as a citizen by intermarriage of the Cherokee Nation.

O R D E R

The record in this case shows that on September 25, 1900, Nathan LaFayette Harlin appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his wife, Margaret Harlin, as a citizen by intermarriage of the Cherokee Nation. The application also included Nathan LaFayette Harlin, but he is differently classified and not embraced in this order.

The evidence shows that Margaret Harlin died on the 27th day of October, 1901.

It is, therefore, ordered by this Commission that the application of Margaret Harlin for enrollment as a citizen by intermarriage of the Cherokee Nation, be dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby,
Acting Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this MAR - 2 1903

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D-415

Muskogee, Indian Territory, March 7, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of an order of the Commission to the Five Civilized Tribes, dated March 2, 1903, dismissing the application of Nathan L. Harlin for the enrollment of his wife, Margaret Harlin, as a citizen by intermarriage of the Cherokee Nation, she having died on October 27, 1901.

Respectfully,

Chairman.

Enc. M-4195

[illegible]

E MATTER OF THE APPLICATION OF

Margaret Harlin

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony. September 25, 1900
2. Memo of application " 25, 1900
3. Notice of final consideration 7/26/[illegible]
4. Death affidavit Margaret Harlin

Coh [illegible]

[illegible]

[illegible] Denied and transferred to [illegible]

See Cherokee jacket 3431

Cher D 416

Cher D 416

D416

DEPARTMENT OF THE
COMMISSION TO THE FIVE C
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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 25, 1900.

In the matter of the application of Florence Bugher for the enrollment of herself, husband and children as citizens of the Cherokee Nation; said Bugher being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please? A Florence Bugher.
Q How old are you? A 29.
Q What is your post office? A Pryor Creek.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Me and my two children.
Q Do you apply for a husband? A Yes, sir, I have a husband.
Q Do you want to apply for him? A Yes, sir.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do youclaim? A My mother claimed one-sixteenth, a 32 I guess.
Q Your husband a White man or Cherokee? A Yes, sir, white man.
Q How long have you lived inthe Cherokee Nation? A Ever since I was a child.
Q You lived here all your life? A I was not raised here.
Q Youbeen here more than 20 years? A No, sir, I have not been here that long.
Q You are on the roll of 1880? A No, sir.
Q Are you an admitted citizen? A Yes, sir.
Q What was your father's name? A William Battles.
Q Cherokee or white man? W White man.
Q Dead or alive? A Dead.
Q How long has he been dead? A Been dead about 14 years.
Q Your mother's name, please? A Adaline.
Q Cherokee or white woman? A Cherokee.
Q Dead or alive? A She is alive.
Q When were you married? A I do not remember the exact date.
Q Have you your marriage lisence? A The Dawes Commission has got it.
Q Did youapply to the Dawes Commission? A They were sent in.
Q About when were you married? A We have been married 10 years in March.
Q What is your husband's full name? A William Bugher.
Q Were you ever married before? A No, sir.
Q Was he ever married before? A No, sir.
Q What is his age now? A 35.
Q He is a white man is he? A Yes, sir.
Q Has he lived with you ever since his marriage? A Yes, sir.

Com'r Breckinridge:—The applicant presents an official copy of an official certificate of certain persons, who were re-admitted to Cherokee citizenship on the 10th day of February, 1888, in which appears the name of Florence Battles, at that time 19 years of age. This is recognized as official evidence of the facts stated.

Q That is your name is it? A Yes, sir.

The docume t concerns the admission of others and it returned to the applicant.

Q Where is your husband? A In Colorado.
Q When did he go to Colorado? A He has been there nearly a year
Q What is the matter with him? A He has the Consumption and Asthma
Q Is this the first time he ever went to Colorado? A Yes, sir.
Q He is living out there? A No, sir, he is out there for his health We have a home at Pryor Creek and have a home there.

Q He has only been there about a year? A Yes, sir. He was about dead when he left home.
Q Give me the names of your children?A Charles.
Q How old is that child? A Eight years old.
Q The next child? A Oma.
Q How old is that child?A She is four years old.
Q Both living now are they? A Yes, sir.

1896 enrollment; page 106, #208, Florence Bugher, Cooweescoowee.
1896 enrollment; page 294, #60, William Bugher, Cooweescoowee.
1896 enrollment; page 106, #209, Charley Bugher, "
1896 enrollment; page 106, #210, Oma Bugher, Cooweescoowee.

Com'r Breckinridge:--The applicant is shown by the official document cited inthe testimony to have been re-admitted to Cherokee citizenshipin 1888. She has lived inthe Cherokee Nation ever since that time. She is identified on the roll of 1896 as a native Cherokee. She states that she was married to her husband in March, 1890 and that the marriage license and certificate are filed with the Dawes Commission. She will be listed now for enrollment as a Cherokee by blood. Her children, Charley and Oma are identified with her on the roll of 1896. They are living at this time and will be listed with their mother for enrollment as Cherokees by blood.

Her husband is identified on the roll of 1896. She states that he has lived with her ever since their marriage ten years ago, and that he has lived continuously in the Cherokee Nation except for temporary absenct within the past year. He has gone to Colorado for his health, where he is now, in a state of extreme illness, but that his absence is of purely a temporary character. In order to consult the marriage license and marriage certificate, said to be on file with the Dawes Commissi n, the application for the enrollment of her husband will at present be placed upon a doubtful card, and he will be enrolled as a Cherokee by adoption when it is shown that his marriage license and certificate are in due legal form.

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J. O. Rosson, being fir t duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn xxxx to before me this 25th day of September, 1900.

Commissioner.

D. 416.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of William Bugher for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 10, that his case would be taken up by the Commission for final consideration on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears in person.

Cherokee Nation represented by W. W. Hastings.

WILLIAM BUGHER, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A William Bugher.
Q How old are you? A 36.
Q Where do you live? A Pryor Creek.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir, supposed I was enrolled all right until I got this notice.
Q Have you the evidence of the admission of your wife to citizenship in the Cherokee Nation? A Yes, sir.
Q What was her name before you married her? A Battles.
COMMISSION: There is offered in evidence by the applicant a certificate from C. J. Harris, Principal Chief of the Cherokee Nation, bearing date of May 23, 1895, certifying that Florence Battles, aged then 15 years, was admitted to citizenship in the Cherokee Nation on the 10th day of February, 1888. This certificate of admission will be filed with the case of the applicant's wife, Cherokee No. 3436.
There is also offered in evidence by the applicant a Cherokee marriage license issued by H. H. Trott, Clerk of Cooweescoowee District, Cherokee Nation, on the 11th day of March, 1891, authorizing the marriage of William Bugher and Miss Florence O. Battles, and a certificate showing that they were united in matrimony by D. W. Ragsdale, District Judge of Saline District, Cherokee Nation, on the 12th day of March, 1891. The same is filed herewith.
Q Is there any further statement you desire to make relative to your application to be enrolled as a citizen of the Cherokee Nation? A Why yes, sir, I have a certificate here stating the reason why I wasn't before the Commission before; I don't know whether that is necessary or not, but I wasn't before the Commission before now; I have not been before it until now; my wife was.
Q You mean stating why your wife made application in your behalf?
A Yes, sir.
Q Where were you when this application was made by your wife for your enrollment? A I was in Colorado.
Q Were you living there at the time? A Well, I was there, I was staying there.
Q How long had you been there? A I was there; well I don't know just how long I was there, it was twenty one months from the time I left my home.
Q When did you go, what year? A 1899, 7th day of September.
Q 1899? A Yes, sir.

Q When did you return? A It was the 11th day of June, 1901.
Q Was that the only time you had been out since you were married to your wife? A Yes, sir.
Q Did you go to Colorado for your health? A Yes, sir.
Q Have you resided here continuously since your return? A. Yes, sir.
Q Did you ever vote while you were out there? A No, sir.
Q You submit the case to the Commission for final consideration? A Yes, sir. I didn't sell my effects or household goods nor nothing when I went, if its of any use.

COMMISSION: The applicant and the attorney for the Cherokee Nation present submit this case to the Commission, and the same is ordered closed and reported to the Commission for a final decision based upon the evidence now on file.

Arthur G. Groninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Groninger

Subscribed and sworn to before me this 27th day of February, 1902.

Commissioner.

Cherokee-D-416

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Florence Bugher for the enrollment of herself and her two minor children, Charles and Oma Bugher as citizens by blood of the Cherokee Nation and for the enrollment of her husband, William Bugher, as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, the applicant, Florence Bugher, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her two minor children, Charles and Oma Bugher, as citizens by blood of the Cherokee Nation and for the enrollment of her husband, William Bugher, as a citizen by intermarriage of the Cherokee Nation. Further testimony was submitted in this case, February 26, 1902, at Muskogee, Indian Territory. Florence Bugher and her two minor children Charles and Oma Bugher have been listed for enrollment on Cherokee Roll Card Field No. 3436.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that Florence Bugher was readmitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship on February 10, 1888 under the name of Florence Nattles. She is identified on the 1896 Census Roll of the Cherokee Nation, page 106, No.206. She was lawfully married to William Bugher on March 12, 1891 under authority of a Cherokee marriage license. William Bugher is identified on the 1896 Census Roll of the Cherokee Nation, page 294, No.80.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the act of Congress, June 28, 1898(30 Stats., 495).

It is therefore the opinion of this Commission that William

Hughes is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

D. 416.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Florence Bugher for the enrollment of herself and her two children, Charles and Oma Bugher, and her husband, William Bugher, as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. C-416.

THE MATTER OF THE APPLICATION OF

William Brasher

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 25. 1900
B. memo of application " 25. 1900
C Notice of final consideration 2/26/10
D Marriage license + certf.

E. Supplemental testimony and order
Closing testimony, Feb. 26, 1902
[illegible], 1904 [illegible] and
tran[illegible]

See Cherokee Jacket 3436

Cher D 417

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D417

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 2, 1900
ACTING CHAIRMAN.

DOUBTFUL AS TO APPLICANT.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 25, 1900.

In the matter of the application of Elizabeth Crutchfield for the enrollment of herself and son John H., as Cherokee citizens; being sworn and examined by Commissioner Needles she testified as follows:

Q What is your name? A Elizabeth Crutchfield.
Q How old are you? A Fifty two yearsold,
Q What is yourpost-office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognized citizenof the Cherokee Nation? A I am an Indian man's wife; I am a white woman.
Q What is your husband's name? A Leroy L. Crutchfield.
Q Is he living? A No sir, dead.
Q When did you marry him? A 1868.
Q You desire to enroll anyone but yourself? A My son.
Q What is his name? A John H. Crutchfield.
Q How old ishe? A 16 years old.
Q Is he alive and living with you? A Yes sir.
Q Is he on the authenticated roll of 1880, A No sir, 1896.
Q What evidence have you got of his citizenship? A I have his evidence of admission.
Com'r Needles: Applicant presents certificate of admission to Cherokee citizenship on the 27 day of January 1888 signed by J T Adair, Chairman of the Committee on Citizenship, attested by C. C. Lipe, Clerk of the Committee, approved and indorsed by J. B. Mayes Principal Chief, issued under the great seal of the Cherokee Nation, certifying that one Leroy L. Crutchfield was admitted to Cherokee citizenship on the 22 day of August 1887.
Q Is the Leroy L. Crutchfield mentioned in this certificate the identical Leroy L. Crutchfield to whom you aver you were married?
A Yes sir
Q Is he living? A No sir, he is dead.
Q You were married in 1868 and your husband wasn't admitted until 1887? A No sir.
Q You haven't been married since? A No sir.
Chief Joel Mayes and Judge Starr told him it wasn't necessary.
Q Your name is not in the certificate? A No sir.
1896 roll page 298 #131 Elizabeth Crutchfield, Cooweescoowee;
1896 roll page 192 #1001Lee L. Crutchfield, Cooweescoowee;
1896 roll page 132 #1002 Jno H. Crutchfield, Cooweescoowee.
Com'r Needles: I also find the name of John H. Crutchfield in this certificate you present; is he the identical John H. Crutchfield your son for whom you apply for enrollment? A Yes sir.
Q Where is he living? A With us here in Vinita.
Q Has he always lived in the Cherokee Nation since his admission?
A Yes sir, we came here in December before he was admitted. And have lived at the same place ever since.

Com'r Needles: The name of John H. Crutchfield appears upon the census roll of 1896, and satisfactory proof of his admission to Cherokee citizenship is presented, certificate being more fully described in the testimony; consequently the said John H. Crutchfield will be duly listed for enrolment by this Commission as a Cherokee citizen by blood.

The applicant, Elizabeth Crutchfield, presents certificate of admission more fully mentioned in the testimony certifying that her husband, Leroy L. Crutchfield, was admitted to Cherokee citizenship on the 22 day of August 1887; she avers that she was married to him in 1868, before the admission of said husband, and her name does not appear in the certificate of admission, consequently final judgment as to the applicant will be suspended and her name

will be placed upon a [illegible] card.
The name of the applicant's husband is identified upon the census roll of 1896.

Q. When did Mr. Crutchfield die? A 6th of March 3 years ago.

M.D.Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 25 day of September 1900.

Commissioner.

Supl.-C.D.#417.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ELIZABETH CRUTCHFIELD as a citizen of the Cherokee Nation, introduced on part of the ~~Cherokee Nation~~ applicant:

The applicant was notified February 20,1902, that her case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears in person and by her attorney, W. D. Humphrey, representing W. H. Kornegay, Vinita Indian Territory.

Mr. W. W. Hastings, Cherokee Representative, present.

ELIZABETH CRUTCHFIELD, the applicant, sworn and examined testified as follows in her own behalf:

MR. HUMPHREY:

Q State your name? A Elizabeth Crutchfield.

Q Where do you live? A Vinita.

Q Mrs. Crutchfield, you are required to supply the Commission of the readmission of Leroy Crutchfield; also certificate of marriage to him. Have you got that certificate of admission? A Yes, sir.

Commission: There is offered in evidence by attorney for the applicant a certificate from the Cherokee Commission on Citizenship signed by J. T. Adair, Chairman Commission on Citizenship, C. C. Lipe, Clerk Commission on Citizenship, approved and endorsed by J. B. Mayes, Principal Chief of the Cherokee Nation, certifying that various persons were admitted to citizenship in the Cherokee Nation by said Commission on the 27th day of January, 1888, and among whom appears the name of Leroy L. Crutchfield, age at that time 43 years. The same is filed herewith.

MR. HUMPHREY:

Q Mrs. Crutchfield, have you a certificate of marriage? A No, sir; it is burned, I have the personal witnesses.

MR. HASTINGS:

Q You and Mr. Crutchfield were married in Texas? A Yes, sir; Wise County, Texas.

Q You stated that on the other examination? A Yes, sir.

L. B. BELL, being duly sworn, testified as follows on part of part of applicant:

MR. HUMPHREY:

Q State your name? A L. B. Bell; Vinita, 63 years old.

Q What is your residence, Col.? A Vinita.

Q What official position do you now hold? A I am representative of the Cherokee Nation now in the matter of these applications of freedmen, claiming citizenship in the Cherokee Nation.

Q Col., did you know Leroy L. Crutchfield? A Yes, I knew Lee Crutchfield as you call him L. L. Crutchfield.

Q L. L. Crutchfield? A Yes, sir.

Q Do you know whether he was ever married? A Well, Lee Crutchfield came to this Nation when he was a grown man and first time I saw him; he brought a wife with him, that has been 12 or 14 years ago, maybe longer.

Q And brought a wife with him? A Yes, sir, and lived with her here until she died.
Q were you acquainted with his wife? A Yes, sir.
Q What was her name? A It was Mrs. Crutchfield.
Q Is this the lady (referring to applicant)? A This is the lady.

F. J. BARRETT, being duly sworn, testified as follows on part of applicant:
MR. HUMPHREY:

Q State your name? A F. J. Barrett.
Q How old are you? A 66.
Q What is your residence? A Henrietta, Clay Co. Texas.
Q How long have you resided there? A In Clay County?
Q In Texas? A 53 years.
Q What official positions have you held in Texas, Captain?
A Well, several, the last was two terms in the Legislature and County Judge prior to that time, County Superintendent and some other minor positions.
Q Did you know Leroy L. Crutchfield? A Yes, sir.
Q Do you know whether or not he was ever married? A He was.
Q How do you know he was, Captain? A I was there when he was married, and saw the ceremony performed.
Q Where was that? A That was in Decatur, Wise County, Texas, on the 12th day of August, 1868.
Q Whom did he marry? A He married Mrs. Elizabeth Horton; this is the lady here.
Q She is the applicant here? (No response.)
Q Do you know whether or not the records in that county had been destroyed since their marriage? A Yes, sir, the Court house was burned twice since their marriage; the first court house was in the center of the square and the other was a stone and brike on the eye-tooth of the square.
Q Do you know whether or not his marriage records were destroyed in that fire? A I don't know just how to answer that; I know that they were distroyed; I know this, that they made application to the legislature to get relief, and get the records substituted so far as they might be by taking abstract of land titles and other muniments of land titles and gathering up of such land title s as they had.

Commission: The attorney for the applicant and the representative of the Cherokee Nation present submit the case to the Commission for final consideration. It is ordered closed as to testimony and reported to the Commission for final decision based on the evidence now on file.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedingw in this case, and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee- D-417

3913

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Elizabeth Crutchfield for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, the applicant, Elizabeth Crutchfield, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of her minor child, John H. Crutchfield, as a citizen by blood of the Cherokee Nation. Further testimony was submitted in this case on February 26, 1902, at Muskogee, Indian Territory. John H. Crutchfield has been listed for enrollment on Cherokee Roll Card Field No. 3440.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that Leroy L. Crutchfield was admitted to citizenship in the Cherokee Nation by a Cherokee Citizenship Commission on August 22, 1887. It further appears that Leroy L. Crutchfield was lawfully married to the applicant, Elizabeth Crutchfield, on August 12, 1868. She is identified on the 1896 Census Roll, Page 298, No. 181.

In 1871 the Supreme Court of the Cherokee Nation having under consideration the question of white women claiming rights by marriage said:

> "That common custom of the Cherokees since their first intercourse with white men made common law upon which most of our statute laws have been founded. White women have been taken as wives by Cherokees from time immemorial, and their rights as Cherokees have never been disputed apart from that of her husband. In all treaties with the United States white women intermarried with Cherokee men have ever been classed as a part of our people. As the Cherokee man is the acknowledged head of the family and white women as wives become subject to him as such and as no special law to regulate the status of white women has been made, nor does the court think it necessary,

Therefore, decide: That Nancy Rodgers and all other white women married to Cherokee men or the widows of such and who have not forfeited their rights under any other law are entitled to such rights and privileges as white men who have been married under the law regulating intermarriage between white men citizens of the United States and Cherokee women."

In the case of Melissa Dawson vs W. A. Dawson pending in the Supreme Court of the Cherokee Nation, November 10, 1886, which was a suit for divorce, an motion was made to dismiss the case upon the ground that the applicant was a white woman and a citizen of the United States. It was shown in that case that W. A. Dawson was married to his wife, Melissa Dawson, a white woman prior to his admission to citizenship in the Cherokee Nation. The motion was overruled by the Supreme Court and the Nanct Rodgers case was cited with approval.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Elizabeth Crutchfield is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory and that the application for her enrollment as such should be granted and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,

this MAY 20 1902

COMMISSIONERS:
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:

D. 417.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Elizabeth Crutchfield for the enrollment of herself as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. C-417.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES
C. R BRECKINRIDGE

ALLISON L AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 417.

Muskogee, Indian Territory, August 12, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of May 20, 1902, granting the application for the enrollment of Elizabeth Crutchfield, as a citizen of the Cherokee Nation, was affirmed by the Secretary of the Interior on July 29, 1902.

Very respectfully,

Tams Bixby
Acting Chairman.

Elizabeth Crutchfield,

Transferred to Cherokee 9470.

Cher D 418

Cher D 418

DH18

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 25 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 25,1900.

In the matter of the application of John W. Martin for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A John W. Martin.
Q What is your age? A About 51.
Q What is your post-office address? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A I am about half.
Q For whom do you apply for enrollment? A Myself wife and children.
Q What is the name of your wife? A Nannie Martin.
Q Is she a Cherokee citizen by blood? A No sir.
Q When did you marry her? A Here is the certificate; I can't remember. (Produces papers)
Comm'r Needles: The applicant presents certificate of marriage certifying that he was married to one Nannie Brackley on February 1[illegible] 1884.
Q Your wife is a white person? A Yes sir.
Q What is the name of your father? A Gabe Martin.
Q Is he living? A No sir.
Q What is the name of your mother? A Eliza Martin.
Q Is she living? A No sir.
Q Your wife's mother and father are non-citizens? A Yes sir.
Note: Applicant hands Commissioner list of his children and Commissioner reads as follows:
Nannie, fifteen years old; Harry, 9 years old; Walter, 6 years old; Gracie, 2 years old.
Applicant presents certificate of birth as to his youngest child, Gracie.
Q Have these children got any middle names? A No sir.
Q Are they all alive and living with you? A Yes sir.
Q Is your name on the roll of 1880? A I think not.
Q Why? A I was in Muskogee, I didn't get back soon enough I think, I came to this country in 1881.
Q Have you got a certificate of admission? A No sir.
1880 roll examined for applicant and was not found.
1896 roll page 509 #2217 John W. Martin Delaware District.
Q Your father and mother not on the 1880 roll? A No sir.
1894 roll page 434 #1934 John W. Martin, Delaware;
1894 roll page 434 #1937 Nannie Martin, Delaware;
1894 roll page 434 #1938 Harry Martin "
1894 roll page 434 #1939 Walter Martin "
1896 roll for wife, page 531 #340 Nannie Martin Delaware;
1896 roll page 509 #2220 Nanny Martin "
1896 roll page 509 #2221 Harry Martin "
1896 roll page 509 #2222 Walter Martin "

L. W. Buffington, being sworn and examined by Commissioner Needles testified as follows:

Q What is your name? A L. W. Buffington.
Q What is your age? A Forty-two.
Q What district do you live in? A Delaware.
Q Do you know John W. Martin? A Yes sir.
Q Do you know anything about him being a Cherokee citizen? A Yes sir, I know he is a Cherokee by blood.

Q Did you know his father? A No sir.
Q Did you know his mother. A No sir.
Q What reason have you to believe he is a Cherokee by blood? A I knew his uncle, a brother of his father.

By Cherokee Rep've W. W. Hastings:

Q How long have you known this party? A Ever since 1882.
Q Did you know him before that time? A No sir.
Q You know where he came from when he came here? A No sir.
Q You know where he was born and raised? A No sir.
Q You know why he wasn't on the roll of 1880? A No sir.

APPLICANT RE-CALLED, and examined by Cher. Rep've Hastings:

Q Where were you in 1880? A I think I was in Vinita. The latter part of 1880.
Q How long did you live in Texas? A I went to Texas when I was about 17 or 18 years old, about '66 or 7 and I came back in '80, and I was at Muskogee the fore part of 1880 and I think I got to Vinita in the latter part of 1880.
Q You are 51 years old now? A I was either born in '48 or '49
Q You were 32 years old when you returned? A About that.
Q You never was re-admitted to citizenship? A No sir, I never give up my citizenship; I drove a team to Texas for a man and then I got there I staid there.
Q You staid there about 13 years? A About 13 years.
Q Was your first wife a Cherokee? A No sir.

Com'r Needles: The name of John W. Martin appears upon the census roll of 1896; he presents certificate proof of his marriage to one Mamie Brackley, a white person, in the year 1884; the names of his children, Annie, Harry and Walter appear upon the census roll of 1896, as well as the pay roll of 1894; the name of John W. also appears upon the pay roll of 1894; his name does not appear upon the authenticated roll of 1880; he presents no certificate of re-admission, and testifies that he went to Texas and remained there some 13 years, coming back to the Territory in the year 1880 or 1881; final judgment as to the enrollment of said John W. Martin, and his wife Mamie and their children as enumerated in the testimony will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 25 day of October 1900.

Commissioner.

SUPPLEMENTAL TESTIMONY.

Cher. D. #418.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 22d, 1901.

In the matter of the enrollment of John W. Martin, et al. as citizens of the Cherokee Nation, the following supplemental testimony is offered on the part of Applicants:

JAMES M. BELL, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name? A James M. Bell.
Q How old are you? A 69 years old.
Q What is your post office? A Needmore.
Q In what district do you live? A Delaware.
Q You are here I believe to give testimony in the case of John W. Martin and his family? A Yes, sir, and more particular in his behalf, I know but little about his family.
Q In this case his family appear to depend upon his status?
A Yes, sir; it is in his behalf.
Q How long have you lived in the Cherokee Nation? A Since '39 with a very little exception, I went to school out of the country.
Q You know John W. Martin, do you? A Yes, sir.
Q How long have you known him? A Since a child three or four years old perhaps.
Q Do you know his wife, Nanncy? A No, sir, I don't know her.
Q You are not acquainted with her at this time? A No, sir; that wife is not his present wife; I don't think I know his present wife.
Q What is the name of his present wife? A I don't know what her given name is, but she is a white woman.
Q You do know his present wife? A Yes, sir.
Q How long has he been married to his present wife? A I think about 16 or 18 years, I am not positive as to the time, about as much as that.
Q What was the name of his present wife when he married her?
A I don't know that she was a widow woman.
Q Well, that corresponds to his testimony; that his present wife is a white man, that he has been married to her since '84, that would be some 16 years? A Yes, sir.
Q How many times as John W. Martin been married? A Twice to my knowledge.
Q Was his first wife dead when he married this woman?
A Yes, sir.
Q You say his present wife was a widow? A Yes, sir.
Q How many times has she been married? A I don't know, sir, she has two children.
Q By a former husband? A Yes, sir.
Q Was that husband dead when she married Martin? A I think so, yes, sir; that is my understanding that her husband was dead.
Q Is John W. Martin's father living? A No, sir.
Q Has he been dead many years? A He has been dead since '52 I think.
Q Is his mother living? A No, sir.
Q Has she been dead many years? A She died about the same time.
Q Do you know where he was born? A He was born here in Tahlequah District, or Fling, and I don't know which, his Grandmother lived right where the High School, Colored High School.
Q Have you always consideration him a native Cherokee? A Yes, sir.
Q Has he been recognized as a Cherokee by blood always? A Yes, sir.
Q He went to Texas at one time did he not? A Yes, sir.
Q Do you know when that was? A He was about, he was hardly grown when he went there, 14 years old.

Q Do you know where he went? A I don't know about what point in Texas he did go.
Q Just only that he went to Texas? A Yes, sir.
Q You meant rto say that you only knew he did go to Texas?
A Yes, sir, he went to Texas:
Q Do you know how long he stayed there? A. He stayed there until after he was grown.
Q About how many years? A He leanred his tride there, he is a Saddler, Harness man.
Q Did you know for what purpose he went to Texas A He told me the purporse he went there for was to drive a wagon.
Q Just taking a wagon down there? A Just for another man, load of Apples I believe, haulted from this Country to that.
Q That is the only purpose you know of? A Yes, sir.
Q And then stayed as you say for sometime after he had reached his majority? A I don't know that he had reached his majority or not; until after he had learned his trade.
Q The point is whether he had reached his majority when he came back?
A I don't know that time that he was of age or hardly of age.
Q Well did you see him soon after his return? A No, sir, I saw him after he come to this point here.
Q Do you mean Vinita? A Yes, sir.
Q When was that? A I think that was in '70, perhaps not as far back as that, perhaps '80 or '81.
Q Have you any knowledged of how long he was here when you saw him at that time? A No, sir.
Q Can you explain why he is not on the roll of 1880?
A His absence from here was the only reason.
Q Only reason you know of? A Yes, sir, but I think he was in the Territory, he was in the Creek Nation, I think at that time, he stopped at Muskogee.
Q What reasons have you to know that? A I had that from himself.
Q What did he tell you? A Told me he stopped in Muskogee and worked at his trade there.
Q Did he tell you how long he worked there? A No, sir, but he must have been there quite a while.
Q What means have you of knowing that? A None only.
Q That is just a supposition isn't it? A That he was there?
Q Yes. A I got that from himself.
Q What did he tell you? A He told me about, all I recollect about that is that he told me he stopped in Muskogee and worked his trade.
Q He didn't tell you how long A No, sir.
Q Nor when he came? A No, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q You stated that John W. Martin was married twice to your knowledge; where was he married the first time? A I don't know that, he came here with a wife that died here.
Q You don't know how long he had been married? A Previous to that, no, sir; his oldest son, Charley, I suppose is 28 or 30 years old, I don't know how old he is.
Q His oldest son? A Is between 25 or 30 years old.

BY COMMISSIONER BRECKINRIDGE:

Q Is he here? A No, sir, he is in Town though.

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Supl. -D. #418. --- 3.

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rossen

Subscribed and sworn to before me this 27th day of May, 1901.

Commissioner.

CD 418

[illegible]
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 4 1902
ACTING CHAIRMAN.

"R"

Cherokee D 418

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of John W. Martin for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and his attorneys were notified by registered letter February 10, 1902, that this case would be taken up by the Commission for final considerationon the 25th day of February,1902; receipt has been acknowledged of the Commission's letter, and the applicant this day appears by his attorney, Mr. Mellette, of Mellette & Smith, Vinita,I.T.

SAM WEBBER, being sworn and being examined testified as follows;

BY MR. MELLETTE:

Q What is your name? A Sam Webber.
Q What is your age? A About 58.
Q Do you know John W. Martin the appl[illegible]nt? A Yes sir.
Q How long have you known him? A We [illegible]ed up together right on the same place up at the Double Springs, a[illegible]ikey Webber's.
Q What Nation? A Cherokee Nation.
Q When was that you first knew him before or after the war?
A Before the war.
Q Did you know his mother? A She died before I could remember her.
Q Did you know his grandmother? A Yes sir.
Q What was her name? A Aikey Webber.
Q Did she own you? A Yes sir.
Q What was she, a Cherokee? A Cherokee by blood, full-blood.

BY MR. HASTINGS: Comes now the representatives of the Cherokee Nation and objects to the taking of this testimony, because this is notan inquiry by the Commission of Cherokees by blood, that that was done in 1896 by the Commission, and the question now for the Commission is to determine who are recognized citizens of the Cherokee Nation, and that is the sole and only question to be presented to the Commission at this time.

Q When did you last see the applicant before the war, about when?
A Time of the war; in time of the Rebellion.

BY MR. HASTINGS:

Q When did you next see him? A I say him again in 1880 at Vinita, after that.

BY MR. MELLETTE:

Q Where did you say you saw him the next time? A Vinita.
Q When? A Sometime in 1880.
Q Where do you live now? A Near Nowata, mile of Nowata.
Q How long have you lived there? A Lived there about three years.
Q Where did you live before you moved to Nowata? A Lived on Big Creek, Cherokee Nation.

BY COMMISSION:

The attorney for the applicant and the representative of the Cherokee wation submit this case to the Commission and sameis ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief in this case, one copy with the Commission and one copy with the Representatives of the Cherokee Nation.

-2- D 418

M.D.Green,being first duly sworn,states [illegible] Commission to the Five Civilized [illegible] testimony and proceedings in this case and [illegible] a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this February 27,1902.

Commissioner.

J

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T. April, 9, I902.

In the matter of the application of
John W. Martin for the enrollment
of himself, wife, and children as
citizens of the Cherokee Nation.

C. D. 4I8.

The applicant, John W. Martin, was fifty-one years of age when he made his application to the Commission in I900, to be enrolled as a citizen of the Cherokee Nation. His name does not appear upon the roll of I880, neither does he present any certificate showing that he was re-admitted to citizenship by the Cherokee authorities subsequent to that time. He claims to have left the Cherokee Nation about the close of the war, and to have returned about the year, I88I.

Indirectly the testimony shows that he was married in the state of Texas, to a white woman where his oldest child, Charles N. Martin, who was twenty_four years of age in I900, was born. Granting that this is his oldest child, the applicant must have married in the state of Texas about the year, I875. He was then twenty-five years of age, had been living in the state of Texas some eight, or ten years, and he left no property behind him in the Cherokee Nation, and he continued to live with his wife in the state of Texas some six, or seven years after his marriage to her, where his oldest child was born. During all of this time, a period of thirteen, or fourteen years, he was in no way identified with the Cherokee Nation, and as far as the testimony shows, had no effects here whatever.

Counsel for applicants evidently realizing that this weakens his case, makes an atthok upon the Cherokee Nation for not furnishing more of the rolls made prior to I880, to the Commission, but these rolls would not avail applicants anything, because they do not claim to have lived in the Cherokee Nation since immediately after the war, until after I880, and counsel for applicant knows, and the Commission knows that the Cherokee Nation has extended every courtesy imaginable to the attorneys representing applicants listed for enrollment as citizens of the Cherokee Nation. All rolls in the possession of the Cherokee Nation have been furnished the Commission upon it's request, and the Cherokee Nation has no rolls that would be of any benefit to the applicants made prior to 1880. The Cherokee Nation contends that Section, 21, of the Curtis Bill confirms the roll of 1880, and if the name of any person, who was then living does not appear upon that roll as a recognized citizen of the Cherokee Nation, he must either show that he was readmitted to citizenship subsequent to that time, but this applicant does not contend that he was a resident of the Cherokee Nation at that time. Counsel for applicants has called the policy of the Cherokee Nation, "Far-fetched, narrow, and unjust", and in answer to this accusation let us say, suppose that every other Cherokee residing within the limits of the Cherokee Nation had done as did John W. Martin, left the Cherokee Nation in 1866, or 1867, and remained from without the limits for a period of some fourteen years, what would have become of the Cherokee Nation? ~~AND~~ And what would there have been for the Cherokees to divide among them at this time? The patent issued to the Cherokee Nation in 1838 contains a provision "That the lands granted shall revert to the United States, if the said Cherokee Nation becomes extinct, or abandons same", and to prevent just such a contingency the Cherokee Nation wisely provided in its constitution, Article, I, Section, 2, against the removal of its citizens from without the limits of the Cherokee Nation.

Again, counsel for applicants brings in a new doctrine, one that has never heretofore been raised: He contends that because John W. Martin has resided in the Cherokee Nation since 1881, that the Cherokee Nation has waived its right to at this time contest him, and has stopped from denying his right to be listed for enrollment as a citizen of the Cherokee Nation.

Applying this ~~testimony~~ doctrine to the five thousand intruders, who made raid upon the Cherokee public domain about the year, 1870, they would be equally as legally entitled as would be the applicants.

Why the counsel for the applicants should loose his temper, it is difficult for the representatives of the Cherokee Nation to understand, inasmuch as the decision as to the right of applicants to be enrolled, has been made entirely by the Commission, and if the policy is "Far-fetched, narrow, and unfair", it is the policy of the Commission, because the Commission inself refused to list the applicants for enrollment upon a straight card because the Act of Congress would not permit it. All of the language intended against the Cherokee Nation in this brief, should be directed afainst the Commission because it is the Commission's action, and not that of the Cherokee Nation, although the representative of the Cherokee Nation heartily concurrs with this action because ~~it~~ he ~~leaves~~ believes it correct.

The Cherokee Nation contends that when this man went to Texas, and married and lived there for the number of years, he became a citizen of the state of Texas, and inasmuch as his name does not appear upon the roll of 1880, it was necessary for him to have been readmitted to citizenship upon his return to the Cherokee Nation, and failing to have done that, this Commission is now powerless to enroll him. If he wanted to apply for readmission to citizenship, he should have done this in 1896, under the act of June, 10th.

Respectfully submitted

W W Hastings JCL

Attorney for the Cherokee Nation.

No C.D. #18

John W Martin
et al

vs

Cherokee Nation

Brief of
Applicants

(Copy for C.N.

Mellette & Smith
Attys for Applican

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE APPLICATION OF JOHN F. AUSTIN FOR THE ENROLLMENT OF HIMSELF, WIFE AND CHILDREN AS CHEROKEE CITIZENS. CHEROKEE DOUBTFUL.

# 418.

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The record in this case shows that the applicant, John F. Austin, was enrolled by the Cherokee Nation upon its roll of 1896, and that the names of his children, Mable, Avery and Walter, appear upon the said roll of 1896 and on the pay roll of 1894. The name of John F. Austin, also appears upon the roll of 1894; that the name of [illegible], wife of John Austin, is not upon the 1880 roll; that the applicant John F. Austin, was born in the Cherokee Nation and was a recognized citizen of the Cherokee Nation prior to 1880; (record page [illegible], the testimony of J. L. Bell.) that he lived continuously in the Cherokee Nation until about the year [illegible], when he went to the State of Texas; that when he left the Cherokee Nation the owner of [illegible] wagons was, that he drove a wagon load of apples for the latter man to the State of Texas; that while in the State of Texas he learned the trade of saddler and harness maker and did not return to the Cherokee Nation until about the year 1880 or '81.

The datas show he went out during the war

It is evident from the record of the Commission in the case that the only reason why the applicants in this case were placed upon what is known as a Doubtful card, was, that the Commission might consider the question of the absence of the said John F. Austin, in the State of Texas. It is quite clear that that is the only point in the case. The applicant, as shown by the testimony of himself and other witnesses, but particularly by the testimony of J. L. Bell, who states that he, the witness, has resided in the Cherokee Nation since 1839; that said applicant was born in the Cherokee Nation and lived there until he was fifteen or more years of age, and that he was a recognized citizen of the Cherokee Nation prior to the enrollment of 1880; that he was absent from the Cherokee Nation during the year [illegible].

[illegible]. The Commission can readily see how a [illegible] [illegible] [illegible] recognized citizen prior to the year 1880, and now be [illegible] upon the 1880 roll by reason of absence during the time the 1880 roll was made. The Commission will take judicial notice of the fact that it [illegible] required to take possession of all the rolls and records of the Cherokee Nation and of those who applied for citizenship therein, and that the [illegible] rolls prior to 1880 have never been in possession of [illegible] [illegible], [illegible] conspicuous by reason of their absence. However, [illegible] J. [illegible] Bell, and others, that the appli[illegible] [illegible] [illegible] recognized citizen of the Cherokee Nation [illegible] [illegible], [illegible] [illegible] in this record [illegible] [illegible] [illegible] [illegible] a citizen. [illegible] [illegible], the question [illegible] [illegible].

[illegible] [illegible] [illegible] citizenship [illegible] [illegible] Commission. It is the contention [illegible] [illegible] [illegible] citizenship. [illegible] of [illegible] [illegible] [illegible] forfeited their citizenship. In [illegible] [illegible] necessary to [illegible] the [illegible] [illegible] [illegible], [illegible]:

"[illegible] whenever any citizen shall remove with his effects out of the [illegible] [illegible], and become a citizen of any other government, [illegible] [illegible] citizenship [illegible] cease; provided, nevertheless, that the National Council shall have power to re-admit, [illegible], to all the rights of citizenship, any person [illegible] [illegible], at any time, desire to return to the Nation, [illegible] [illegible] the National Council [illegible] [illegible]."

[illegible] this provision [illegible] it [illegible] to be [illegible]? Any [illegible] [illegible] or persons, [illegible] terms of the act. To whom does any such [illegible] [illegible] refer? Certainly, only to the citizen who shall remove with his effects and become a citizen of another government. That is to say, the word citizen, in the preceding clause.

[illegible] re-admission is necessary we must know whether or not there has occurred a forfeiture. There can be no forfeiture under the Cherokee law by the mere removal from the Cherokee Nation, and [illegible] [illegible] roll, regardless of the length of the absence becaus there must occur three elements. 1st. The removal. 2nd. The removal [illegible] Martin.

[illegible] Mundus and Effects. 3rd. Acquiring citizenship [illegible] other government. It is a general rule of law that [illegible] which work a forfeiture are construed with [illegible] strictness.

In the case of the New York Indians vs. United States, decided by the Supreme Court of the United States [illegible] October Term 1897, it was held that:

"[illegible] abandonment of a claim [illegible] must not only be an [illegible] to [illegible], but an intent to forego."

The court [illegible]:

"[illegible] the antagonism between [illegible] of [illegible] in the case of [illegible] of a [illegible] government, [illegible] of different nations. [illegible] United States [illegible], 467.

[illegible] against [illegible] nation. [illegible]:

"[illegible] .... [illegible]."

[illegible] to the following:

"[illegible] waived by the subsequent act of [illegible]."

[illegible] itself [illegible] of citizens [illegible] the [illegible] who [illegible] Cherokee Nation could do, [illegible] their rolls of citizens [illegible] after their [illegible], [illegible] to participate in the payments ~~of~~ of the [illegible] and permitting them to vote, the Cherokee Nation has waived [illegible] it ever had, if it ever had any, to question their citizenship. These people, unconscious of the fact that they had done any act which deprived them of citizenship, and knowing that they had no intention of abandoning the Cherokee Nation, did not think [illegible] necessary. The Cherokee Nation did not think it [illegible].

[illegible] it recognized the [illegible], so [illegible] citizen has lived in the Cherokee Nation for twenty years, exercising the rights of citizenship, [illegible] we [illegible] the Cherokee Nation, in this case [illegible] that [illegible] quoted in the case of New York Indians vs. United States, [illegible] this case.

[illegible] in this case. [illegible]:

"[illegible] for the [illegible] to the [illegible]."

[illegible] the [illegible], the [illegible], and [illegible], [illegible]. The [illegible] again, [illegible] that [illegible].

[illegible] States can only proceed [illegible] legislative or judicial action By direct & not Collateral proceeding. [illegible] is [illegible] citizens [illegible].

[illegible] of the Cherokee Constitution itself, if it [illegible] says, and we must take it that it does because it is the only [illegible] the Cherokee Nation relies upon this subject, there [illegible] in this case. At most the Cherokee Nation can only contend in this case that the applicant removed from the Cherokee Nation and this [illegible] was [illegible]. The record does not show that he took any goods and effects with him; it does not show that he exercised a single act of citizenship in the State of Texas, or any where else outside of the Cherokee Nation. The failure of either of these propositions is fatal to the contention of the Cherokee Nation. All three of the elements mentioned in the Cherokee Constitution must concur before there can be a forfeiture because the clause is in the conjunctive.

Long before the return of this applicant to the Cherokee Nation the Supreme Court of the United States in the case of Elk vs. Wilkens, (112 U.S. 94) rendered an opinion which would have made it impossible for this applicant to have forfeited his citizenship notwithstanding his residence in the State of Texas, without the concurrence of the [illegible] citizenship of the State of Texas, and that, under the Elk decision, he could not have become one except by naturalization. It is not contended by the Cherokee Nation in this case that the [illegible], that the applicant was ever naturalized, or that he was ever recognized as a citizen of the State of Texas, or in [illegible]. The Supreme Court in the Elk case, held as follows:

"The petition, while it does not show of what Indian Tribe the plaintiff was a member, yet, by the allegations that he is an Indian, and was born within the United States, and that he had severed his tribal relation to the Indian Tribes, clearly implies that he was born a member of one of the Indian Tribes within the limits of the United States, which still exists and is recognized as a Tribe by the Government of the United States. Though the plaintiff alleges that he had fully and completely surrendered to the jurisdiction of the United States, he does not allege that the United States accepted his surrender or that he has ever been naturalized or taxed or in any way recognized or treated as a citizen, by the State or by the United States. Nor is it contended by his counsel that there is any statute or treaty that makes him a citizen.

The question then is, whether an Indian, born a member of one of the Indian Tribes within the United States, is, merely by reason of his birth within the United States and of his afterwards voluntarily separating himself from his Tribe and taking up his residence among white citizens, a citizen of the United States, within the meaning of the 1st section of the 14th Amendment of the Constitution?

Under the Constitution of the United States, as originally established, Indians not taxed were excluded from the persons according to whose numbers representatives and direct taxes were apportioned among the several States; and Congress had and exercised the power to regulate commerce with the Indian Tribes, and the members thereof, whether within or without of one of the boundaries of one of the States of the Union. The Indian Tribes, being within the territorial limits of the United States, were not, strictly speaking, foreign States; but they were alein Nations, distinct political communities, with whom the United States might and habitually did deal, as they thought fit, either through treaties made by the President and Senate, or through Acts of Congress in the ordinary forms of legislation. The members of those Tribes owed immediate allegiance to their several Tribes and were not part of the people of the United States. They

[illegible]

> [illegible] permanent condition, a state of [illegible], [illegible] [illegible]. [illegible] their [illegible], except [illegible] statute of the United States, [illegible] by any State. [illegible] Acts of Congress [illegible] 1888, [illegible] as to clearly [illegible].
>
> [illegible] of their own will, without the [illegible] of [illegible] the United States. [illegible] citizens of the United States, [illegible] explicit provision of treaty [illegible] to that effect, [illegible] or [illegible] removal of the [illegible], to be citizens, or [illegible] individuals of particular tribes to become citizens [illegible] courts of the United States, for [illegible];"

[illegible] provision of the Cherokee law itself regarding [illegible] court, it [illegible] at [illegible] nec[illegible] of the Cherokee Constitution [illegible] Cases in [redacted] [illegible], [illegible] all at [illegible] Cherokee [illegible] of [illegible] and [illegible] their [illegible] the Cherokee [illegible]. [illegible] of the [illegible] of the Constitution [illegible] that, [illegible] adopted [illegible] [illegible] to [illegible] [illegible] enacted. [illegible], [illegible] of the Cherokee [illegible]. [illegible] Constitution [illegible] affirmative [illegible]tion of [illegible]. [illegible] this law to Cherokees [illegible], at some time during their lives, been absent from the Cherokee Nation, [illegible] before leaving, were recognized citizens and who, have since their return [illegible] been recognized by the Cherokee Nation, it is [illegible] and can not be made to answer the present purpose of the Cherokee Nation.

[illegible] believe that any Tribunal could reasonably be expected to agree with the Cherokee Nations farfetched narrow and unjust policy upon this question. It is not their own law, and is in direct conflict with every principle of right, justice and law known to the United States by the decisions of its courts.

Respectfully submitted.

Mellette & Smith
Attorney's for Claimants.

Q You lived continuously in Texas from '66 to '81? A 1866, yes, sir.

Q Did you have any home in the Cherokee Nation during that time?

A Do you mean land, house and farm? I had land all right.

Q Where was your land? A Just anywhere I took it up.

Q As a matter of fact you had as much a home in Texas as Indian Territory? A No, sir.

Q You were living there from '66 to '81? A Of course.

Q And did not live here during that time? A No, I could not live two places.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 14th day of November, 1902.

Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
NOV 17 1902
Acting Chairman.

Cherokee D 418.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 17, 1902.

In the matter of the application of John W. Martin for the enrollment of himself and his five minor children, Mamie, Harry, Walter, Gracy and Nelly Martin, as citizens by blood, and for the enrollment of his wife, Nannie Martin, as a citizen by intermarriage, of the Cherokee Nation.

SUPPLEMENTA PROCEEDINGS.

NANNIE MARTIN, being sworn, testified as follows:

By the Commission,

Q What is your name? A Nannie Martin.
Q How old are you? A I don't know, I was about four years old, I guess, when the War ended.
Q About four years old when the War ended? A Yes, sir.
Q That would make you about forty years old.
Q What is your postoffice? A Vinita.
Q Are you a white woman? A Yes, sir.
Q What is your husband's name? A John Martin, J. W. they call him.
Q John W. Martin? A Yes, sir.
Q When were you married to Mr. Martin? A I was married in 1884.
Q Is your husband a Cherokee by blood? A Yes, sir.
Q How long has he been living in the Cherokee Nation? A He was born here.
Q Has he lived in the Cherokee Nation all his life? A No, sir, I don't think he did.
Q Where has he been living besides the Cherokee Nation? A In Texas.
Q How long did he live in Texas? A I can't tell you.
Q Where was he living when you married him? A Vinita.
Q Is John W. Martin your first husband? A No, sir, I was married to a white man once.
Q Was he dead when you married John W. Martin? A Yes, sir.
Q Was John W. Martin ever married before he married you? A yes, sir.
Q Was she a Cherokee? A Yes, sir.
Q Is she dead? A I don't know.
Q Were they divorced? A I don't know. He was married twice before I married him.
Q Was he divorced from his other wife? A No, his last wife was dead.
Q What was her name? A Laura Martin.
Q Laura? A Yes, sir.
Q Where were they divorced? A His first wife? I don't know what her name was.
Q That's the one that's dead? A Yes, sir.
Q You don't know the name of his first wife? A No, sir, I don't.
Q How do you know they were divorced? A I don't know; I just 'lowed they was.
Q Did he ever tell you they were divorced? A No, sir, I never asked him, I did not think it was anything to me to ask him.
Q Now, you say you and your husband have been living together ever since you were married? A Yes, sir.
Q And have been living in the Cherokee Nation? A Yes, sir.
Q Been living at Vinita all that time? A Yes, sir.

Q How many children have you? A We have had seven; two dead.
Q Five children living, have you? A Yes, sir.
Q You say your husband has been living in the Cherokee Nation nearly all his life? A No, sir, I don't know how long he was out of the Cherokee Nation.
Q But been living in the Cherokee Nation ever since you married him?
A Yes, sir, ever since I married him.
Q How long had Mr. Martin been in Texas before you married him?
A I don't know.

JOHN W. MARTIN, being sworn, testified as follows:

By the Commission,

Q What is your name? A John W. Martin.
Q How old are you? A About fifty-three years old.
Q What is your postoffice? A Vinita.
Q Are you a Cherokee by blood? A Yes, sir.
Q How long have you been living in the Cherokee Nation? A About twenty years, I think.
Q About twenty years? A Yes.
Q Do you mean you have been living in the Cherokee Nation for the past twenty years? A Past twenty years, yes, sir.
Q Where were you born? A Cherokee Nation.
Q How long did you live in the Cherokee Nation after you were born?
A About thirteen years.
Q How long? A About thirteen years.
Q Thirteen years, and then where did you go? A I went to the army.
Q Were you a soldier? A Yes, sir.
Q That was during the War? A Yes, sir, during the War.
Q Well, after you came out of the army, where did you go? A Come back to the Territory and went to Texas in '66 or '67.
Q How long did you stay in Texas? A Let's see, I came back in '81, I think.
Q You stayed in Texas then from '66 to '81, did you? A '81, and stopped in this town and went to Vinita in the winter of '81.
Q What's that? A In the winter of '81 I left this town.
Q What were you doing in Texas? A Learning a trade.
Q After you learned it, did you work at it down there? A Yes, sir.
Q Did you vote down there? A Not that I know of.
Q You would know of it if you did? A I don't know; I don't remember of ever voting in Texas.
Q Where was your home at that time? A I lived in Texas, but my home was here.
Q Your home was in the Cherokee Nation? A Yes, sir, I always considered it my home.
Q When were you married the first time? A I married, I think, it was in '66, I think it was that date.
Q What was your first wife's name? A Her name was Rutha Shepard.
Q Was she a white woman? A No, sir, a Cherokee.
Q Is she living now? or dead? A I think she's living.
Q Were you divorced from her? A No, sir.
Q You were not? A No, sir.
Q How long did you live together? A Well, I can't tell you.

Q How many years? A Probably three or four months.
Q You lived with her three or four months? A Yes, sir.
Q Then separated? A Yes, sir.
Q Never lived with her after that? A No, sir.
Q Ever get any divorce from her? A No, sir, I went to Texas. There was a young man come through there and told me she was dead, and I was under the impression that she was dead when I married again.
Q When did you marry your second wife? A I married, let's see, I can't tell you definitely.
Q About how many years after your separation from your first wife?
A I think probably I married in '74 or '75.
Q The second time? A Yes, sir.
Q How long did you live with that wife? A Well, I lived with her -- I can't tell you how long exactly.
Q About how long? A Let me see, it must have been within two or three months before I married my third wife.
Q Your second wife died before you married your third wife?
A I had to marry on account of the children.
Q When did you marry your third wife? A It must have been two or three months after.
Q What year? A It must have been in December sometime.
Q In December of what year? A '84, I think, I am not definite on that point, I think it was '84.
Q Now, did you know in 1884 whether your first wife was living or dead? A No, sir, I did not.
Q Had you ever made any inquiry about her as to where she was or where living? A I was under the impression she was living.
Q It had been eighteen years since you had seen or heard about her?
A Well, I don't know how long.
Q Here a little while ago you heard about her for the first time since '66, you heard she was living? A Yes, sir. I don't think it has been but about two months ago.
Q Have you been living continuously in the Cherokee Nation since you came back from Texas in '81? A Yes, sir.
Q Been living continuously since then? A Yes, sir.

By Mr. Starr,

Q Where were you and your first wife married? A Webbers Falls.
Q Where were you living when you separated? A Webbers Falls.
Q Where did she continue to live after the separation? A Why, I think she lived down here.
Q Here in the Cherokee Nation? A Yes, sir.
Q Did you make any effort to find out where she was living during all this time? A Why, no, sir. That's where I left her and I supposed she lived there.
Q You never made any inquiry after that? A That's how I come to find out she was dead.
Q When you heard she was dead, did you make any inquiry down there where you left her? A Yes, sir.
Q What inquiry did you make? A I wrote to my uncle at Webbers Falls and could not get no answer from him and I think he was dead. I could not get no answer and I wrote several letters along and I could not get no answers from them.
Q Did not hear from anybody about it? A No, sir.

Q You lived continuously in Texas from '66 to '81? A 1866, yes, sir.
Q Did you have any home in the Cherokee Nation during that time?
A Do you mean land, house and farm? I had land all right.
Q Where was your land? A Just anywhere I took it up.
Q As a matter of fact you had as much a home in Texas as Indian Territory? A No, sir.
Q You were living there from '66 to '81? A Of course.
Q And did not live here during that time? A No, I could not live two places.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 14th day of November, 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John W. Martin, et al., for enrollment as citizens of the Cherokee Nation, consolidating the applications of:

John W. Martin, et al.,	Cherokee	D 418
Charles N. Martin,	"	D 426
Cora E. Martin,	"	D 468

DECISION

The record in these several cases shows that the following named applicants appeared before the Commission at the places hereinafter designated, and made personal application for the enrollment of the following named persons as Cherokee citizens.

On September 25, 1900, John W. Martin appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his four minor children, Mamie, Harry Walter and Gracy Martin, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Nannie Martin, as a citizen by intermarriage of the said Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on May 22, 1901, and at Muskogee, Indian Territory, on February 25, and October 17, 1902. On March 7, 1902, there was filed with the Commission an affidavit duly executed on February 22, 1902, from which it appears that Nelly Martin was born on November 27, 1900; that she is the child of John W. and Nannie Martin, and that she was living at the date of the execution of the affidavit.

Charles N. Martin at Vinita, Indian Territory, on September 25, 1900, made application for the enrollment of himself and his wife, Olive E. Martin, as citizens by blood of the Cherokee Nation. Olive E. Martin is differently classified and is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 28, 1902.

Cora E. Martin at Vinita, Indian Territory, on October 2, 1900, made application for enrollment as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 28, 1902.

The evidence shows that John W. Martin, and Charles N., and Cora E. Martin, his adult children, are Cherokee Indians; that said John W. Martin went to the State of Texas about 1866 or 1867, and that he and his said children returned to the Cherokee Nation about 1881.

Nannie Martin, a white woman, was married to the said John W. Martin on February 14, 1884, and the minor applicants herein are the issue of that marriage. It appears that Nannie Martin is the third wife of said John W. Martin, that his second wife was dead at the time of his marriage to Nannie, and having at that time been separated from his first wife for about eighteen years without hearing from her, she is presumed to have been dead.

An examination of the tribal rolls of the Cherokee Nation in the possession of this Commission shows that John W. Martin, Charles N. Martin and Cora E. Martin are identified on the Cherokee pay rolls of 1883, 1886, 1890 and 1894 and the Cherokee Census roll of 1896. The said Nannie Martin is also identified on the Cherokee Census roll of 1896. The minor children of the said John W. and Nannie Martin, except Gracy and Nelly, are identified on the Strip payment roll of 1894 and the Cherokee Census roll of 1896. Gracy and Nelly Martin are identified by birth affidavits made a part of this record.

The evidence further shows that the said John W., Charles N., and Cora E. Martin have resided continuously in the Cherokee Nation since 1881 and that Nannie Martin has been living with her husband, the said John W. Martin, from the date of their marriage up to and including September 1, 1902. It is considered that the minor applicants herein have resided in the Cherokee Nation since their birth.

Article II, of the treaty concluded between the United States and the Cherokee Nation, at Tahlequah, Indian Territory, on December 19, 1891, approved by the Principal Chief on January 4, 1892, and ratified by an Act of Congress, approved March 3, 1893, (27 Stats., L. 612-641), provides as follows:

> "For and in consideration of the above cession and relinquishment, the United States agrees:
> First. That all persons now resident, or who may hereafter become residents, in the Cherokee Nation, and who are not recognized as citizens of the Cherokee Nation by the constituted authorities thereof, and who are not in the employment of the Cherokee Nation, or in the employment of citizens of the Cherokee Nation, in conformity with the laws thereof, or in the employment of the United States Government, and all citizens of the United States who are not resident in the Cherokee Nation under the provisions of treaty or acts of Congress, shall be deemed and held to be intruders and unauthorized persons within the intent and meaning of section six of the treaty of 1835; and sections twenty-six and twenty-seven of the treaty of July 19, 1866, and shall, together with their personal effects, be removed without delay from the limits of said Nation by the United States, as trespassers, upon the demand of the principal chief of the Cherokee Nation."

Upon examination of the lists of intruders and unauthorized persons residing in the Cherokee Nation, furnished by the Principal Chief pursuant to said treaty, which lists bear date of 1893 and are now in possession of the Commission, it appears that the names of none of said applicants are found thereon.

It is, therefore, the opinion of this Commission that John W. Martin, Mamie Martin, Harry Martin, Walter Martin, Gracy Martin, Nelly Martin, Charles N. Martin and Cora E. Martin, should be enrolled as citizens by blood, and that Nannie Martin should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this MAR - 2 1903

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

[illegible]

ADDRESS [illegible]
COMMISSION [illegible]

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee
D-418, D-426 &
D-488.

Muskogee, Indian Territory, March 11, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, granting the application of John W. Martin for the enrollment of himself and his minor children, Mamie, Harry, Walter, Gracy and Nelly Martin, as citizens by blood, and for the enrollment of his wife, Nannie Martin, as a citizen by intermarriage; the application of Charles N. Martin for the enrollment of himself as a citizen by blood; and the application of Cora E. Martin for the enrollment of herself as a citizen by blood, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-1221

IN THE MATTER OF THE APPLICATION OF

John W. Martin Jr.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony - September 25, 1900
2. Memo of application - " 25, 1900
3. Marriage Certificate
5. Birth affidavit. Stacy Martin
8. Attorneys receipt for testimony
7. Supplementary testimony May 8, 1901

Notice of final consideration 2/25/02

4. Supplemental testimony and order closing testimony, Feb. 25, 1902

Brief for applicants

Birth affidavit, Nelly Martin

[illegible] R [illegible] transferred to Cherokee [illegible]

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COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 27 190[illegible]

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 25, 190[illegible].

In the matter of the application of Samuel Frazier for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Samuel Frazier.
Q What is your age? A 38
Q What is your post-office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen oh the Cherokee Nation? A Yessir
Q By blood or intermarriage? A Intermarriage.
Q For whom do you apply for enrollment? A My wife and children
Q You don't apply for yourself? A Yes sir.
Q What is the name of your wife? A SArah Anna Frazier.
Q What was her name before you married her? A Gunter.
Q When did you marry her? A 1888.
Q How old is she? A She is 33
Q Have you any certificate of your marriage? A Yessir. (Produces [illegible])
Com'r Needles: Applicant presents certified copy of marriage certificate and license, certifying that he was married to one Amana Gunter on the [illegible] day of April 188[illegible], certified to by [illegible].
Q Is your wife a Cherokee citizen by blood? A Yes sir.
Q Is her name on the authenticated roll of 1880? A [illegible] I think it is.
Q What is the name of her father? A Goldman Gunter.
Q What is the name of her mother? A [illegible].
Q Are they living? A [illegible].
You present certified copy of certificate of admission to citizenship, certificate being signed by [illegible] Young, President, [illegible] and [illegible], Associate Commissioners, and the authenticity of said certificate being certified to by A. [illegible] Cunningham Assistant Executive Secretary of the Cherokee Nation, in this certificate I find the name of [illegible] Gunter; is that [illegible] Gunter in this certificate the [illegible] your wife for whom you apply for enrollment? A Yes sir.
Q Your wife's name doesn't appear in this certificate? A No sir.
Q [illegible] born before January 14 1880? A Yes sir.
Q [illegible] was she born? A [illegible].
Q [illegible] of her brothers and sisters who were adults appear in this certificate? A Yes sir.
Q Do any of the names of the children who were minors appear in this certificate? A No sir.
Q Have you been living with your wife ever since you married her? A Yes sir.
Q Living with her now? A Yes sir.
Q What are the names of your children? A Goldman, Frazier, 11 yearsold; Jessie, 8 years old; Gracie, 3 years old.
Applicant presents satisfactory certificate of birth as to his youngest child whose name does not appear upon the roll of 1896.
Q Are these children all alive and living with you? A Yes sir
1896 roll page [illegible] #[illegible] Samuel Frazier Delaware District;
189[illegible] roll page [illegible] #1108 Sarah Ana Frazier, Delaware Dist;
1896 roll page 469 #1109 Cal Dean Frazier, Delaware "
1896 rollpage 469 #1110 Lela Jessie Frazier " "

Com'r Needles: The name of Samuel Frazier appears upon the census roll of 1896; he presents certificate of admission more particularly described in the testimony, certifying that one Nancy Gunter was admitted to citizenship in the year [illegible], and he avers that his wife, Sarah Ann, is a child of said Nancy Gunter, but the name of his wife does not appear upon said certificate; the name of his wife appears upon the census roll of 1896 as Sarah Ann Frazier; the names of his children, Caldeen and Jessie appear upon the census roll of 1896, and he makes satisfactory proof of birth as to his child Gracie; having made no satisfactory proof as to the citizenship of said Sarah Anna Gunter, the averment being made that she is a child of Nancy Gunter born to said Nancy Gunter before she was admitted to citizenship, consequently final judgment as to the enrollment of Samuel Frazier as an intermarried citizen of the Cherokee Nation and of his wife, Sarah Anna Frazier, and their children, Caldeen, Jessie and Gracie as Cherokee citizens by blood will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 26 day of September 1900.

C R Breckinridge

Commissioner.

CD419

THE
COMMISSION
TRIBES
FILED
FEB 27 1902
ACTING CHAIRMAN

"R"

Cherokee D 419

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of Samuel Frazier et al., for enrollment as Cherokee citizens.

Appearances:
A.S.McKennon, South McAlester, I. T., attorney for the applicants, and applicant-in-chief in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 10,1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Applicant this day appears in person and by his attorney, A.S.McKennon, Esq., of South McAlester, I. T., and by special request and agreement with the representative of the Cherokee Nation the case is taken up this day for consideration.

SAMUEL FRAZIER, being first duly sworn and being examined, testified as follows:

BY A.S.McKENNON:

Q What is your name? A Samuel Frazier.

Q What is your age, Mr. Frazier? A I am 40.

Q Are you a white man? A Yes sir.

Q What is the name of your wife? A Sarah Amma Frazier.

Q What was her mother's name? A Nancy Gunter.

Q Is that the same Nancy Gunter whose name appears in the record of the Cherokee Citizenship Commission introduced in this case? A Yes sir.

Q What is your wife's age? A She is 35.

Q Where has she been residing since your marriage with her? A In the Territory, Cherokee Nation.

Q When were you married to her? A '88.

Q Where? A I was marriedin the Nation.

Q Were you married under Cherokee law? A Yes sir.

Q You say she has been living here how long? A Ever since '88.

Q Has she continuously resided in the Cherokee Nation, all that while? A Yes sir.

Q Has she property, and had property all the while in the Cherokee Nation? A Yes sir.

Q Has she all the while been recognized as a Cherokee citizen by the Cherokee authorities? A Yes sir.

Q Was her citizenship ever questioned since her mother's admission? A No sir.

Q She was enrolled as a Cherokee citizen was she? A Yes sir.

BY MR. HASTINGS:

Q Your wife was the daughter of Nancy Gunter? A Yes sir.

Q She lived in Siloam Springs, Arkansas when you first knew her? A Yes sir.

Q She lived there up until the time you married her in 1888? A Yes sir.

Q Since that time she has lived with you in the Cherokee Nation continuously? A Yes sir.

BY COMMISSION: Attorney for the applicant and representative of the Cherokee Nation present submit this case to the Commission. Same is ordered closed and reported to the Commission for final consideration based upon the evidence now of record. The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902.

C. R. Breckinridge

Commissioner.

D. 419.

Samuel Frazier et al

Application for
enrolement as
Cherokee Citizens

Brief for Applicants

A S McKennon
Atty for Applicants

Before the Honorable Commission to the
Five Civilized Tribes, at Muskogee, I. T.

In re application of Samuel Frazier, et al. for enrollment as Cherokee citizens. D 419.

Sarah Ann Frazier, wife of Samuel Frazier, one of the applicants in this cause, is the daughter of Nancy Gunter, who was readmitted to citizenship in the Cherokee Nation on January 14, 1880, by judgement of the Cherokee Citizenship Commission, as follows:

> "Commission on Citizenship, Case No. 5.
> Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
> vs
> The Cherokee Nation.
> (Petition for citizenship January 14, 1880.)
>
> The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee citizenship.
>
> Roach Young, President of Com.
> William Harnage,
> G. W. Mayes, Associate Com.
> J. B. Mayes, Clerk Commission."

By this judgement the said Nancy Gunter is adjudged to be a Cherokee by blood, native born, for which reason she and her family were readmitted to citizenship in the Cherokee Nation. Her adult children were named, but she had three minor children, whose names were not mentioned in said judgement. The applicant, Sarah Ann Frazier, being one of them. Under the laws and customs of the Cherokees, the names of parents and their adult children were, as in this case, included in the judgement of re-admission, and the minor children, not mentioned, were afterwards enrolled as citizens, as a matter of course.

Said Sarah Ann was, in 1888, married to applicant, Samuel Frazier, a white man, according to Cherokee laws. She was, therefore, at that time, recognized as a Cherokee citizen, else a license for her marriage would not have been issued by the Cherokee authorities.

From the date of their said marriage to the present time they have continuously resided in the Cherokee Nation, being recognized as Cherokee citizens, and enjoying all the rights and privileges of citizens. The Cherokee roll, for Delaware District, of 1896, shows their enrollment, and that of two of their children as follows:

Page 572, No. 191, Samuel Frazier,
page 469, No. 1108, Sarah Ann Frazier,
page 469, No. 1109, Cal Deen Frazier,
page 469, No. 1110, Lola Jessie Frazier.

In behalf of their other child, Gracie, they presented at the time of their application for enrollment, September 25, 1900, a satisfactory birth certificate.

The said Sarah Ann Frazier was properly enrolled, as a Cherokee citizen, under Cherokee laws, and was duly recognized as such from the time of the readmission of her mother, Nancy Gunter, to the present time. Her rights as a citizen never having been questioned until objection was made to her enrollment, and that of her family, by representatives of the Cherokee Nation, at the date of their application aforesaid.

The first paragraph of Section 21 of the Act of Congress, June 28, 1898, known as the Curtis Act, is as follows:

> "That in making rolls of the citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and proceeding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation, whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Under provisions of this act the Commission to the Five Civilized Tribes is authorized and required to enroll all persons, who were minors at the date of the readmission of their parents to citizenship in the Cherokee Nation, and who were afterwards enrolled by the Cherokee authorities, and settled within the Cherokee Nation. The said Sarah Ama comes fully within the provisions of this law, and is, therefore, beyond question, entitled to enrollment as a Cherokee by blood. This being true, her husband, Samuel Frazier, to whom she was married according to Cherokee laws, must be enrolled as an intermarried Cherokee, and their Children, Caldeon, Lela Jessie, and Gracie, as Cherokees by blood.

All of which is respectfully submitted.

A S McKennon
Atty for Applicants

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. April 9th 1902.

Number Cherokee D 419.

In the matter of the application of Samuel Frazier for the enrollment of himself, his wife and minor children as citizens of the Cherokee Nation

Brief of the Cherokee Nation.

……

The wife of the applicant is a daughter of Nancy Gunter who was listed for enrollment on Cherokee Doubtful Card Number 422 and she claims her citizenship through her mother; she was born in 1867 and was married in 1888 and while she was married in the Cherokee Nation she was living in Benton County Arkansas at the time she was twenty-one years of age or under both the Cherokee Law and the United states laws now in force in the Indian Territory she was three years beyond her majority, under both laws women being of age at the age of eighteen years.

She claims her citizenship through her mother as the wife of applicant was not admitted herself and inasmuch as her mother never removed to and permanently located in the Cherokee Nation and in as much as the wife of applicant herself never removed to the Cherokee Nation until after 1888 we do not see how the Commission under the law can enroll her. She certainly can not be entitled to any greater rights than her mother and her mother has continuously residedin Benton County Arkansas since her readmission in 1880 where she now resides and where herhusband died a short time ago.

Reference is made to the brief filed in the case of Nancy Gunter Cherokee D 422.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Cherokee D- 419.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
---0---

In the matter of the application for the enrollment of SAMUEL FRAZIER, as a citizen by intermarriage, and SARAH AMMA, CALDEEN, JESSIE and GRACE FRAZIER as citizens by blood of the Cherokee Nation.

--o:0:o--

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DECISION.

-- -- -- -- -- -- -- --

The record in this case shows that on September 25, 1900, Samuel Frazier appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for his wife, Sarah Amma Frazier, and their minor children, Caldeen, Jessie and Grace Frazier, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 25, 1902, and again on September 29, 1902..

The evidence shows that on April 10, 1888, Samuel Frazier married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, one Sarah Amma Gunter, who was a minor at the time of the admission to citizenship of her mother, one Nancy Gunter, by the duly constituted authorities of the Cherokee Nation on January 14, 1880. All of the applicants herein are identified on the Cherokee Census Roll of 1896 except Grace Frazier. She, having been born subsequent to the taking of said roll is identified by a certificate of birth, filed herewith.

The evidence further shows that Samuel Frazier has lived with his said wife in the Cherokee Nation continuously from the date of his marriage to her up to and including September 1, 1902.

The residence of the minor children herein are considered to be the same as their parents.

It is, therefore, the opinion of this Commission that Samuel Frazier should be enrolled as a citizen by intermarriage, and that Sarah Amma Frazier, Caldeen Frazier, Jessie Frazier and Grace Frazier should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 12 1903

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,

IN THE MATTER OF THE APPLICATION OF SAMUEL FRAZIER, ET AL,
FOR ENROLMENT AS CITIZENS OF THE CHEROKEE NATION.

D--419

PROTEST OF THE CHEROKEE NATION.

Comes now the Cherpkee Nation and respectfully protests against the decision of the Commission rendered on January 12th, 1903, and asks that the same be forwarded to the Secretary of the Interior for review, together with the brief heretofore filed on the part of the Cherokee Nation in said case.

Reference was made in said brief to the case of Nancy Gunter, Cherokee D, 422, who since said brief was filed was rejected by the Commission to the Five Civilized Tribes, and this rejection affirmed by the Secretary of the Interior.

Since because of her residence, the mother of the wife of the applicant was not enrolled, and her daughter remained with her until after she became of age and married in the State of Arkansas, we do not see how under the law she can be enrolled, or those dependent upon her, as citizens of the Cherokee Nation.

Respectfully submitted,

W W Hastings
Attorney for the Cherokee Nati

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
—
ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-419

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 12, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:-

There is enclosed herewith a copy of the decision of the Commission to the Five Civilized Tribes, dated January 12, 1903, granting the application of Samuel Frazier for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife, Sarah A. Frazier, and his three minor children, Caldeen, Jessie and Grace Frazier, as citizens by blood of said Nation.

You are advised that you will be allowed fifteen days from date hereof, in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-219

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, SECRETARY

...OFFICE OF...
ATTORNEYS FOR THE CHEROKEE NATION
CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

~~[illegible]~~

Vinita, Indian Territory, January 19th., 1903.

The Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:-

Enclosed herewith find Protest of the Cherokee Nation against the Commission's decision in the matter of the application of Samuel Frazier, et al, for enrollment as citizens of the Cherokee Nation, Cher. D-419.

Yours truly,

McG

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-419

Muskogee, Indian Territory, August 29, 1903

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated January 12, 1903, granting the application of Samuel Frazier for the enrollment of himself as a citizen by intermarriage and for the enrollment of his wife, Sarah A., and his three minor children, Caldeen, Jessie and Grace Frazier, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior, as to all except Samuel Frazier, on August 14, 1903.

The Department's letter states:

> "The rights of the applicant, Samuel Frazier, who claims as an intermarried citizen of the Cherokee Nation, will not be adjudicated by the Department at the present time but will await the decision of the Court of Claims upon the question submitted by the Department to said court on February 24, 1903, relative to the rights of intermarried Cherokee citizens."

Respectfully,

Chairman.

(COPY)

D.C.52904-1906. Y.P.

DEPARTMENT OF THE INTERIOR

I.T.D. 1408-1903. WASHINGTON. FHB.

L.R.S. November 28, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Referring to departmental letter of August 14, 1903, in the matter of the application for the enrolment of certain persons as citizens of the Cherokee Nation, including Samuel Frazier as a citizen of that nation by intermarriage, in view of the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, appealed from the Court of Claims, the application for the enrolment of said Samuel Frazier is denied. The claims of the other applicants were disposed of in said letter.

The papers in the case have been sent to the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

6 inc. to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 419.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 12, 1906.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated January 12, 1903, granting the application for the enrollment of Samuel Frazier as a citizen by intermarriage of the Cherokee Nation was reversed by the Department November 28, 1906.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.W-14.1/2
S.W.

THE MATTER OF THE APPLICATION OF

Samuel Frazier et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

D 1171

A Original testimony - September 25. 1900
B. Memo of application " 25. 1900
C. Certified Copy of Marriage License & certificate
D. Birth affidavit - Grace Frazier
E Notice of final consideration 2/26/

F

Sup. testimony from case of Nancy Gunter - 2/25/1902
G Sup. testimony and order closing testimony. 2/25/02.

Receipt for testimony

Brief for applicants.

T 14 1902

[illegible]

Retain. G

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[illegible]
MMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP [illegible] 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Rufus Miller.
Q What is your age? A About 51 or 2.
Q What is your post-office address? A Ruby.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A Half.
Q For whom do you apply for enrollment? A For myself, wife and children.
Q What is the name of your wife? A Hanna J. Miller.
Q What is her age? A About 46
Q When were you married to her? A 1877.
Q Have you been living with her continuously ever since? A Yes sir
Q She is alive now? A Yes sir.
Q Is your wife a white woman? A Yes sir.
Q What are the names of your children under 21? A Joshua D., about 14;
Note: Applicant hands list to Com'r being list of childrens' names, which reads:
Sarah Ann, 11 years old; Elizabeth, 8 years old; William A., 4 years old.
Q Are these children all alive and living with you at this time?
A Yes sir.
Applicant: I am not on the 1880 roll.
Q By what right do you claim citizenship? A I went on a visit to see my wife's people in the States and never got back in time for the enrollment.
Q When did you get back? A I got back in the fall of 1884.
Q What state were you living in? A Missouri.
Q Were you ever re-admitted? A I never had moved out.
Q You were never re-admitted? A No sir.
1896 roll page [illegible] #[illegible] Rufus Miller, Delaware District.
Q Have you a certificate of marriage to your wife Hanna?
A No sir.
Q Have you any proof of marriage? A No sir.
1896 roll page 5 31 #353 as Hana J. Miller, Delaware District.
1896 roll page 505 #2083 Joshua D. Miller "
1896 roll page 505 #2084 Sallie Ann Miller "
1896 roll page 505 #2085 Elizabeth Miller "
1896 roll page 505 #2086 William A. Miller, "

Examined by Cherokee Rep've W. W. Hastings:

Q When did you go to Missouri? A I went in the spring of 1880.
Q Where did you live in 1880 before you went? A In Flint. I was born in [illegible].
Q Lived there all your life until the spring of 1880? A I was born in [illegible], in the spring before the old Emigrant payment. I don't know nowhere else as a home, nor nowhere else, because I was born and raised here, and never been nowhere else for a home.
Q Did you ever live out up to 1880? A No sir never lived nowhere else.
Q Where were you married? A In Missouri.
Q When? A In 1877.
Q What part of Missouri? A Neosho.

Q How did you become acquainted with your wife in Texas if you never went up there? A I didn't say I never went up there, I never lived there.
Q How long were you up there? A I just went backwards and forwards; I have been to Missouri several times.
Q How long had you been up there when you married in 1877?
A I hadn't been up there but a little while.
Q How long do you call a little while? A Two or three months.
Q What were you doing up there in Missouri? A I was at work up there once and a while, and went home, and back up there.
Q Did you ever work up there before that time? A No sir.
Q When was the first time you ever went out of the Cherokee Nation to Missouri to work? A 1877.
Q You married, and how long did you live up there before you brought your wife to the Cherokee Nation? A I brought her back that fall.
Q What time did you go up there? A In July.
Q Have you ever gone back up there to work, after the fall of 1877? A I went back up there in the spring of 1880 on a visit and of course while I was up there I had to work for a living? A You stayed up there during that year? A No sir.
Q Didn't you testify awhile ago you came back here in 1880? A No sir, I didn't, I said in the fall of 1880.
Q You went up there in the spring of 1880 and came back in the fall of 1880, is that your testimony? A I came back in the fall of 1877.
Q And then you went up there again in the spring of 1880? A Yes
Q When did you come back that time? AQ In the fall of 1880?
A Yes sir.
Q Then did you ever go back up there, any more? A I haven't been back up there since.
Q What were you doing while you were up there? A I was at work making rails and jobbing around at anything I could get to do for a living.
Q Have you ever worked out of the Cherokee Nation since the fall of 1880? A No, I don't know that I ever did.
Q Don't you know? A No, I know I didn't.
Q Are your wife's people living now? A They are dead.
Q When did they die? A They died 9 years ago in the Cherokee Nation; [illegible] back here, after they [illegible] never had no more business to visit in the States.

Commr Needles: The name of said [illegible] Miller appears upon the census roll of [illegible]; he swears that he was married to one Hannah J. Miller, a white person, in the year 1877, but presents no certificate of marriage; the name of his wife also appears upon the census roll of 1896; the names of his children, Joshua D. Sarah A., Elizabeth and William A. appear upon the census roll of 1896; the name of the applicant does not appear upon the authenticated roll of 1880, and he makes no satisfactory proof as to his Cherokee citizenship, also satisfactory proof as to his residence; final judgment as to the application of said [illegible] Miller for the enrollment of himself, wife Hannah J. and children will be suspended, and their names will be placed upon a doubtful card.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 26 day of September 1900.

Commissioner.

D420

[illegible]

No. 4[illegible].

[illegible]

[illegible], Jr.

[illegible]

[illegible] I don't know.

[illegible] I don't know, [illegible].

[illegible] A I [illegible].

[illegible]

[illegible], about five or six [illegible].

[illegible] Jones, being duly sworn, [illegible] stenographer to the Commission [illegible] correctly [illegible] the proceedings and testimony in [illegible] the foregoing [illegible] true [illegible] complete transcript of [illegible] stenographic notes thereof.

Bruce E. Jones

Sworn to and subscribed before me this [illegible] 1900.

[illegible] Notary [illegible]

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T. February 27, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as citizens of the Cherokee Nation.
The applicant was notified by registered letter February 19, 1902, that his case would be taken up for final consideration by the Commission on the [illegible] day of February 1902.
The applicant this day appears in person.
Cherokee Nation represented by W. W. Hastings.
RUFUS MILLER, the applicant, being duly sworn, testified as follows:
COMMISSION: What is your name? A Rufus Miller.
Q How old are you? A Dont know my age just exactly
Q What is your post office address? Q Where do you live? A At Centralia.
Q That in the Cherokee Nation? A Yes sir.
Q You have changed your address since you appeared before the Commission last time? A Yes sir. Ruby was the post office for a while, I get letters there yet.
Q Well, what is your post office address? A Well, just put it back to Ruby, my place is right there.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q Do you desire to make any statement relative to your application in your own behalf and in behalf of your wife and children? A Why I dont know that I could any more than I have made.
Q You submit the case to the Commission for final consideration?
A Why I guess so, all I can do, all I wants is just justice.

The applicant and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Crowninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Crowninger.

Subscribed and sworn to before me this 27th day of February 1902.
T. B. Needles, Commissioner.

Ella Mielens, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the foregoing copy and that the same is a full and correct copy of the original transcript.

Subscribed and sworn to before me this [illegible] day of May 1902.

Notary Public.

D 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T. September 25, 1900.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Rufus Miller.
Q How old are your? A About 51 or 2.
Q What is your post office address? A Ruby.
Q In what district do you live ? A Cooweescoowee.
Q Are you a recognised citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A Half.
Q For whom do you apply for enrollment? A For myself, wife and children.
Q What is the name of your wife? A Hannah J. Miller.
Q What is her age? A About 44.
Q When were you married to her? A In 1867.
Q Have you been living with her continuously ever since? A Yes sir
Q She is alive now? A Yes sir.
Q Is your wife a white woman? A Yes sir.
Q What are the names of your children under 21? A Joshua D. , who about 14.
Note: Applicant hands list to Commissioner, being list of childrens names, and Com'r reads:
Sarah Ann, 11 years old; Elizabeth, 8 years old; William A., 4 years old;
Q Are these children all alive and living with you at this time?
A Yes sir.
Applicant: I am not on the 1880 roll.
Q By what right do you claim citizenship? A I went on a visit to see my wife's people in the State and never got back in time for the enrollment.
Q When did you get back? A I got back in the fall of 1884.
Q What state were you living in? A Missouri.
Q Never were re-admitted? A I never moved out.
Q You were never re-admitted? A No sir.
1896 roll page 505 #2082 Rufus Miller, Delaware District.
Q Have you a certificate of marriage to your wife, Hannah? A No sir
Q Have you proof of marriage? A No sir.

1896 roll page 3061 #353 as Hana J. Miller, Delaware District.
1896 roll page 505 #2083 Joshua D. Miller, " "
1896 roll page 505 #2084 Sallie Ann Miller " "
1896 roll page 505 #2085 Elizabeth Miller " "
1896 roll page 505 #2086 William A. Miller " "

Examined by Cherokee Representative W. W. Hastings:

Q When did you go to Missouri? A I went in the spring of 1880.
Q Where did you live in 1880 be fore you went? A Flint. I was born in Goingsnake.
Q Lived there all your life until the spring of 1880? A I was born in Going snake in the spring before the old immigrant payment I dont know nowhere else as a home, nor nowhere else, because I was born and raised here, and never been nowhere else for a home.
Q Did you ever live out up to 1880? A No sir, never lived nowhere else.
Q Where were you married? A In Missouri.
Q When? A In 1877 .
Q What part of Missouri? A Neosho.

Q How did you become acquainted with your wife in Missouri if you
never were up there? A I did'nt say I never was up there, I never
lived there.
Q How long were you up there? A I just went backwards and for-
wards; I have been to Missouri several times.
Q How long had you been up there when you married in 1877? A I had'
been up there but a little while.
Q How long do you call a little while? A Two or three months.
Q What were you doing up there in Missouri? AI was at work up
there once and a while, and went home and back up there.
Q Had you ever worked there before that time? A No sir.
Q When was the first time you ever went from the Cherokee Nation
to Missouri to work? A In 1877.
Q You married, and how long did you live up there before you brought
your wife to the Cherokee Nation. A I brought her back that fall.
Q Were you married in the spring? A In July.
Q When did you go back to work there, after the fall of 1877.
Q I went up there in the spring of 1880 on a visit and of course
while I was up there I had to work for a living.
Q You visited four years up there did'nt you? A No sir.
Q Did you testify a while ago that you came back here in 1884?
Q No sir, I did'nt I said in the fall of 1880.
Q You went there in the spring of 1880 and came back in the fall of
1880, is that your testimony? A I came back in the fall of 1877.
Q You say you went up there again in the spring of 1880? A Yes.
Q When did you come back that time? A In the fall of 1880?
A Yes sir.
Q When did you go back up there any more? A I have'nt been back
there since.
Q What were you doing while you were up there? A I was at work
mining and jobbing around at anything I could get to do for a living
Q Have you ever worked out of the Cherokee Nation since the fall
of 1880? A No, I dont know that I ever did.
Q Dont you know? A No, I know I did'nt.
Q Your wife's people living now? A They are dead.
Q When did they die? A They died two years ago in the Cherokee
Nation; they moved back here, after they moved back here then we
never had no more business to visit in the State.

Com'r needles: The name of Rufus Miller appears upon the census
roll of 1896; he avers that he was married to one Hannah J. Miller,
a white person, in the year 1877, but presents no certificate of
marriage; the name of his wife also appears upon the census roll of
1896, the names of his children, Joshua D. Sarah A. Elizabeth and
WilliamA. appear upon the census roll of 1896, the name of the ap-
plicant does not appear upojmtthe authenticated roll of 1880, and
he makes no satisfactory rpoof as to his Cherokee citizenship, also
satisfactory proof as tomhis residence; final judgment as to the
application of the said Rufus Miller for the enrollment of himself,
wife, Hannah J., and children will be suspended, and their names
will be placed upon a doubtful card.

M. F. Green, being first duly sworn, states that as stenographer to
the Commission to the Five Civilized Tribes he correctly recorded
the testimony and proceedings in this case and that the foregoing
is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this 26th day of September 1900.

C. R. Breckinridge, Commissioner.

I, the undersigned, being duly sworn, as stenographer to the

Commissioner to the Five Civilized Tribes, do state that the above and foregoing is a true and correct copy of the original transcript.

Subscribed and sworn to before me this [illegible] day of [illegible] [illegible].

Notary Public.

D 420

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. September 25, 1900.

In the matter of the application for the enrollment of Rufus Miller James J. Paden, being sworn and examined by Commissioner Needles testified as follows:

Q What is your name? A James J. Paden.
Q What is your age? A 47
Q What is your post office address? A Fairland.
Q Do you know Rufus Miller? A Yes sir.
Rufus Miller: Do you know me to be a Cherokee? A Yes sir, always been recognized as a Cherokee.
Commissioner Needles? By who? A By all the Cherokees I have known him all my life about.
Q Why is'nt he on the roll of 1880 if he is a recognized Cherokee?
A No sir, I dont know that, since we were botj grown he has lived right in the same neighborhood with me for fifteen years.
Mr. W. W. Hastings: Representative of the Cherokee Nation: What district was that? A In Delaware District.
Q Did you know him before 1880? A Yes sir.
Q Where did you know him then? A In Flint District.
Q Did you live near him then? A Yes sir.
Q Was he a recognized citizen of the Cherokee Nation? A Yes sir. That was when we were boys, his folks was recognized as Cherokees and him too.Q When did you move from Flint? A I life (left) there sometime in the seventies.
Q Did you know him from the time youbleft up to now; after you left when did you know him next? A I never saw him any more until he moved here.
Q About how long a space between? A It must have been eight or ten years.
Q Was there ever any dispute about his citizenship down there?
A No sir.
Q Any up here? A No sir, not that I ever heard of.
M. L. Paden, being sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A M. L. Paden.
Q What is your age? A 34
Q What district do you live in? A Flint.
Q Do you know Rufus Miller? A I used to know him, yes sir.
Q How long since you have known him? A20 or 25 years I guess.
Q What do you know about his Cherokee citizenship? A I know the family are Cherokees; I knew his father was always known to be a Cherokee.
Q What degree of blood is this Rufus Miller? A I dont know.
Q What degree of blood is his father? A I dont know sir.
Q His mother? A I did'nt never know his mother.
Q Did you know the reason his name is not on the roll of 1880 as a recognized Cherokee citizen? A No sir.
Mr. W. W. Hastings: How far did you live from him down in Flint, or his folks? A I presume about five or six miles.

Bruce C. Jones, being duly sworn, being duly sworn says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case and the foregoing is a true and complete transcript of his stenographic notes thereof.
Bruce C. Jones.
Sworn and subscribed to before me this the 28 of September 1900.
T. B. Needles, Commissioner.

Ella Mielenz, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes she made the foregoing copy and that the same is a true copy of the original transcript.
Ella Mielenz

Subscribed and sworn to before me this 13th day of May, 1902.
Notary Public.

D 620

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. January 10, 1901.
In the matter of the application of Rufus Miller.
SUPPLEMENTAL TESTIMONY.

Commissioner Needles: Applicant, Rufus Miller, appears and files proof of marriage.
Interrogated by W. W. Hastings, Cherokee representative:
Q How old did you say youbwere? A I could'nt say just how old I am.
Q Were you ever arrested for anything? A Yes sir.
Q When? A Along about '75.
Q By whom? A There's a man got me to get some horses for him-
Q By whom, under process of what court? A Cherokee Court.
Q Flint District? A Going snake District.
Q Were you tried in 1875? A Yes sir.
Q By that court? A Yes sir.
Q What was the result of that trial? A They convicted me.
Q What became of you then? A They took me then to Fort smith on the same charge.
Q What did you do there? A I never done anything there.
Q Why? A I dont know why.
Q Did you stand your trial? A No sir.
Q Did you give bond? A Yes sir.
Q Did you jump that bond? A Yes sir.
Q And fled from the country? A No sir, I was just scouting around.
Q You were scouting in 1880? A No sir, I was'nt.
Q How long were you scouting around? A For three or four years. Three years I guess.
Q You were scouting in 1880? A When I was married I was scouting.
Q That's how you come to be up in Missouri? A Yes sir.
Q That's how you come to get acquainted with your wife up there?
A Yes sir.
Q You were scouting in 1880, were'nt you? A I dont believe I was.
Q Are you positive on that point? A I wont be positive, I dont hardly redollect, I dont hardly think I was.
Commissioner:
Q Was'nt that the reason your name was'nt on the roll of 1880?
A No sir, I had done been back home, and went to Missouri again.
By W. W. Hastings:
Q Did you ever come back and stand your trial down there? A They never did arrest me, and never tried me any more.
Q Did you ever live in Eureka Springs, Arkansas.
A No sir.
Q Was you ever in Arkansas scouting? A No sir. Never was farther than Fayetteville. I was born within three miles of the line, and I have been in the State a good deal of my life.

Commissioner: I understand you to say, you lived continuously in the Cherokee Nation since 1880? A Yes sir ever since 1880.
Q Your children, they born in the Cherokee Nation? A Yes sir, all but two, I had two born in the states. My wife would go back and be confined.
Q Your wife would go back and be confined? A Yes sir.
Q You were living in the Cherokee Nation at this time? A Yes sir, never did live out of the Cherokee Nation; always had property and place here in the Cherokee Nation.
Q What degree of blood are you? A Half.
Q Your mother and father Cherokees? A Both half Cherokees.
Q You never applied to be re-admitted? A No sir, never did in my life.

E. G. Rothenberger, being duly sworn, states that as stenographer to the Commission to the Five Cilized Tribes, he reported in full the supplementary testimony in the above case, and that the foregoing is a full true and correct transcript of his stenographic notes in said case.

E. G. Rothenberger.

Subscribed and sworn to before me this [illegible] day of January 1901.

C. R. Breckinridge, Commissioner.

Ella Mielenz, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the foregoing copy and that the same is a true and correct copy of the original transcript.

Ella Mielenz

Subscribed and sworn to before me this 16 day of May 1902.

Notary Public.

D 420

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T, February 26, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as citizens of the Cherokee Nation.
The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26h day of February 1902.
The applicant this day appears in person.
Cherokee Nation represented by W. W. Hastings.
RUFUS MILLER, the applicant, being duly sworn, testified as follows:
COMMISSION: What is your name? A Rufus Miller.
Q How old are you? A Dont know my age just exactly
Q What is your post office address? A Where do you live? A At Centralia.
Q That in the Cherokee Nation? A Yes sir.
Q You have changed your address since you appeared before the Commission last time? A Yes sir. Ruby was the post office for a while, I get letters there yet.
Q Well, what is your post office address? A Well, just put it back to Ruby, my place is right there.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q Do you desire to make any statement relative to your application in your own behalf and in behalf of your wife and children? A Why I dont know that I could any more than I have made.
Q You submit the case to the Commission for final consideration?
A Why I guess so, all I can do, all I wants is just justice!

The applicant and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Creninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Creninger.

Subscribed and sworn to before me this 27th day of February 1902.

T. B. Needles, Commissioner.

Ella Mielenz, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the foregoing copy and that the same is a full and correct copy of the original transcript.

Ella Mielenz

Subscribed and sworn to before me this 18 day of May 1902.

Notary Public.

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ON TO THE FIVE CIV BES.

FILED

JAN 11 1901

ACTING CHAIRMAN.

Department of the Interior.
Commission to the Five Civilized Tribes.
Muskogee, I.T., January 10, 1901.

In the matter of the application of Rufus Miller.

SUPPLEMENTARY TESTIMONY.

Commissioner Needles- Applicant, Rufus Miller, appears and files proof of marriage.

Interrogated by W.W.Hastings, Cherokee representative-
Q How old did you say you were? A I couldn't say just how old I am.
Q Were you ever arrested for anything? A Yes sir.
Q When? A Along about '75.
Q By whom? A There's a man got me to get some horses for him-
Q By whom, under process of what court? A Cherokee Court.
Q Flint district? A Goingsnake district.
Q Were you tried in 1875? A Yes sir.
Q By that Court? A Yes sir.
Q What was the result of that trial? A They convicted me.
Q What became of you then? A They took me then to Fort Smith on the same charge.
Q What did you do there? A I never done anything there.
Q Why? A I don't know why.
Q Did you stand your trial? A No sir.
Q Did you give bond? A Yes sir.
Q Did you jump that bond? A Yes sir.
Q And fled from the Country? A No sir, I was just scouting around.
Q You were scouting in 1880?, A No sir, I wasn't.
Q How long were you scouting around? A For three or four years; three years I guess.
Q You were scouting in 1880? A When I was married I was scouting.
Q That's how you come to be up in Missouri? A Yes sir.
Q That's how you come to get acquainted with your wife up there?
A Yes sir.
Q You were scouting in 1880, weren't you? A I don't believe I was.
Q Are you positive on that point? A I won't be positive. I don't hardly recollect. I don't hardly think I was.

Commissioner-
Q Wasn't that the reason your name wasn't on the roll of 1880?
A No sir, I had done been back home, and went to Missouri again.

By W.W.Hastings-
Q Did you ever come back and stand your trial down there? A They never did arrest me, and never tried me anymore.
Q Did you ever live in Eureka Springs, Arkansas? A No sir.
Q Was you ever in Arkansas scouting? A No sir, never was farther than Fayetteville. I was born within three miles of the line, and I have been in the State a good deal of my life.

Commissioner-
Q I understand you to say, you lived continuously in the Cherokee Nation ever since 1880? A Yes sir ever since 1880.
Q Your children, they born in the Cherokee Nation? A Yes sir, all but two. I had two born in the States. My wife would go back and be confined.
Q Your wife would go back and be confined? A Yes sir.
Q You were living in the Cherokee Nation at that time? A Yes sir, never did live out of the Cherokee Nation; always had property and place here in the Cherokee Nation.
Q What degree of blood, are you? A Half.
Q Your mother and father Cherokees? A Both half Cherokees.

Q You never applied to be readmitted? A No sir, never did in my life.

E.G.Rothenberger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the supplementary testimony in the above case, and that the foregoing is a full, true and correct transcript of his stenographic notes in said case.

E.G. Rothenberger

Subscribed and sworn to before me this 11th day of January, 1901.

Commissioner.

D. 420.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. The applicant this day appears in person.

Cherokee Nation represented by W. W. Hastings.

RUFUS MILLER, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A Rufus Miller.
Q How old are you? A Don't know my age just exactly.
Q What is your postoffice address; where do you live? A At Centralia.
Q That in the Cherokee Nation? A Yes, sir.
Q You have changed your address since you appeared before the Commission the last time? A Yes, sir. Ruby was the postoffice for a while, I get letters there yet.
Q Well, what is your postoffice address? A Well, just put it back to Ruby, my place is right there.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Do you desire to make any statement relative to your application in your own behalf and in behalf of your wife and children? A Why I don't know that I could, any more than I have made.
Q You submit the case to the Commission for final consideration?
A Why I guess so, all I can do, all I wants is just justice.

The applicant and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 27th day of February, 1902.

Commissioner.

Cherokee-D-420.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

7013

In the matter of the application of Rufus Miller for the enrollment of himself and his four minor children, Joshua D., Sarah A. Elizabeth and William A. Miller, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Hannah J. Miller, as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, the applicant, Rufus Miller, appeared before the Commission at Vinita Indian Territory, and then and there made personal application for the enrollment of himself and his four minor children, Joshua D., Sarah A., Elizabeth and William A. Miller, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Hannah J. Miller as a citizen by intermarriage of the Cherokee Nation. Further testimony was submitted in this case on January 10, 1901 and on February 26, 1902 at Muskogee, Indian Territory.

It appears from the evidence in support of this application and from an examination of the tribal rolls of the Cherokee Nation that the applicant, Rufus Miller, is not identified on the 1880 authenticated tribal roll of the Cherokee Nation. His absence from that roll is accounted for from the fact that in the Spring of 1880 he went on a visit to the state of Missouri and did not return until the fall of 1880. He has resided continuously in the Cherokee Nation since that time. He is duly identified on the 1896 Census Roll of the Cherokee Nation.

It further appears that he was lawfully married to Hannah B. Spears on July 4, 1877. She is duly identified on the 1896 Census Roll of the Cherokee Nation. The minor children for whom application is made herein are all identified on the 1896 Census Roll of the Cherokee Nation. It further appears that under the act approved

Cherokee-D- 420

December 21, 1890 Rufus Miller and Hannah J. Miller were each paid $15.55, said amount found to be due under the per capita payment of 1880.

The authority of the Commission herein is defined in Par.1, Sec. 21, of the act of Congress, June 28, 1898(30 Stats., 495).

It is therefore the opinion of this Commission that Rufus Miller, Joshua D. Miller, Sarah A. Miller, Elizabeth Miller and William A. Miller are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that Hannah J. Miller is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Act'g Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,

this AUG 11 1902

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 20th, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself as a citizen by blood of the Cherokee Nation; for the enrollment of his wife, Hannah J. Miller, as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his children, Joshua D., Sarah A., Elizabeth and William A. Miller, as citizens by blood of the Cherokee Nation.

Supplemental to D-420.

RUFUS MILLER, being duly sworn, testified as follows:

Examination by the Commission.

Q. Your name is Rufus Miller, is it? A. Yes, sir.
Q. How old are you? A. I guess I must be about 52.
Q. What is your post office? A. Centralia.
Q. You are a Cherokee by blood? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. Born and raised here.
Q. Have you lived in the Cherokee Nation all your life?
A. Yes, sir.
Q. Were you living in the Cherokee Nation in 1880? A. I wasn't here.
Q. Where were you? A. I was up in Missouri.
Q. How long were you in Missouri? A. About a year.
Q. Is that the reason your name is not on the eighty roll?
A. Yes, sir.
Q. What is the name of your wife? A. Hannah J.
Q. Is she a white woman? A. Yes, sir.
Q. She is claiming the right to be enrolled as a citizen by intermarriage? A. Yes, sir.
Q. When were you married? A. 4th day of July, 1877.
Q. Is she your first wife? A. Yes, sir.
Q. Are you her first husband? A. Yes, sir.
Q. Neither you nor your wife had ever been married before?
A. No.
Q. Have you and your wife been living together ever since you were married? A. Yes, sir.
Q. Never separated? A. No, sir.
Q. Are you living together now? A. Yes, sir.
Q. Has the Cherokee Nation been your home ever since you were married A. Been my home ever since I was born.
Q. How many children have you? A. I have four at home and three married.
Q. All living, are they? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 16th day of December, 1902.

V.B.A. Jones
Notary Public.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 420.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Rufus Miller for the enrollment of himself and his four minor children, Joshua D., Sarah A., Elizabeth and William A. Miller, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Hannah J. Miller, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 20.

THE MATTER OF THE APPLICATION OF

Rufus Miller Jr et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1 Original testimony September 25. 1900
2. Memo of application " 25. 1900
3. Certificate relative to payment of money
4 - Additional testimony September 25. 1900
5. " " January 10. 1901
6. Certificate of Marriage

Letter rel to enrollment.

Notice of final consideration 2/24/02

8 Order closing testimony, Feb 26, 1902

See Cherokee Jacket D438, D443, D444, R 181, R18

[illegible]

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Cher D 421

D 421

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900
ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 2 , 1900.

In the matter of the application of Carrie L. Bingham fror enrollment as a citizen of the Cherokee Nation; said Bingham being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please? A Carrie L. Bingham.
Q How old are you? A 24.
Q What is your post office? A Dennisson, Texas.
Q In what district do you claim your residence here? A Cooweescoowee.
Q For whom do you apply for enrollment? A Just myself.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What is your father's name? A Steve Bluejacket.
Q He is a Shawnee? A Shawnee by blood.
Q What proportion of Shawnee blood do you claim? A About a quarter. Your mother's name, please? A Emily.
Q Was she Shawnee or white woman? A Shawnee.
Q Dead or alive. A Dead.
Q How longhas she been dead? A Four years, did in 1896
Q When were you married? A November 2 , 1899.
Q To whom were you married ? A Henry L. Bingham.
Q He is a white man is he? A Yes, sir.
Q Have you a certificate of marriage? A Yes, sir.

The applicantpresents a marriage license and certificate, issued by the Clerk of the United State Court, Northern District, Indian Territory, under date of November 22, 1899, authorizing her marriage to Henry L. Bingham. They were married on saidday by Henry L. Butler a Minister of the Gospel.

Q How about your living in Texas? Did you lived in the Cherokee Nation from the time you were born until you married? A Yes, sir.
Q Is your husband resideing in Texas? A Yes, sir, he is at present:
Q Did he live there before you married? A He was there three years before I married him. His home is in Indiana.
Q He does not pretend to live in the Cherokee Nation? A No, sir.
Q Did he ever life here after your marriage? A No, sir, he was here a short while.

1880 enrollment; page 64, #131, Carrie Bluejacket, Cooweescoowee
1896 enrollment; page 336, #27, Carrie Bluejacket, "

Comr Breckinridge:--The applicant is identified on the rolls of 1880 and 1896 as an adopted Shawnee. She has lived inthe Cherokee Nation from the time her her birth until her marriage, November 22, 1899. Her change of name arose by reason of her marriage as attested by the marriage license and certificate filed herewith. Since her marriage she has lived in the State of Texas, and she resides there with her husband at this time. For the further consideration of her case, her application will be placed upon a doubtful card, and the final ~~jx~~ decision of the Commission will be made known to her when it is rendered.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoingis a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 27th day of September, 1900.

Commissioner.

Supl.C.-D.#421.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 23d, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Carrie L. Bingham as a Cherokee citizen, introduced on part of applicant:

APPEARANCES:
Henry L. Bingham, husband of applicant, for applicant;
Mr. J. L. Baugh, Cherokee representative.

JOSEPHINE BLUEJACKET, being duly sworn by Commissioner Needles, testified as follows on part of applicant:

COM'R NEEDLES: What is your name? A Josephine Bluejacket.

Q What is your age? A 58 yearsold.

Q What district do you live in? A In Cooweescoowee district now.

MR. BINGHAM: Do you know when we moved to Denison?

A Yes, sir.

Com'r Needles of Mr. Bingham: When who moved to Denison?

A My wife.

MR. BINGHAM: Do you know whether she intended to stay in Denison? A No, sir; she was married and went there about eight months I think; she was born and raised in this country.

Q Did she take anything with her? A No, sir, nothing but her wearing clothes.

Q Did she leave any household furniture or goods here? A She left a horse and buggy and allotment her father had given her.

Q Was the farm rented at the time we left here? A Well, I really don't know anything about that, Luther; I think they have always rented the farm, they never did tend it themselves.

Q Do you know when we came back here? A Yes, I know when you came back.

Q Do you know what we came back for? A Yes, sir, came back here to live.

Q Has my wife been living here ever since she came back? A Yes, sir, she came up after you went to Texas and stayed a while, two or three months. She come back home and was here for a season, I could not say exactly how many months she was here quite a while.

Q You knowed her father? A Yes, sir.

Q Was her father a registered Indian? A Yes, sir, he was a Shawnee.

Q Was her mother? A Yes, sir.

COM'R NEEDLES: What relation are you to this applicant?

A I am an Aunt by marriage.

Q You say you knew when she returned from Texas? A Yes, sir.

Q When was that? A That was about last January I think.

Q January, 1901? A Yes, sir.

Q Had this applicant, Carrie Bingham, always resided in the Cherokee Nation until her marriage to Mr. Bingham? A Yes, sir, she was born and raised right here.

Q Where are they living now? A They are living on the farm.

Q Cherokee Nation? A Yes, sir.

Q They lived here in 1898; in June, 1898, where did ~~they~~ Carrie live

A Let's see, in '98, then they was living here; they were married after that, wasn't they; she never did leave this country only that little while.

MR. BAUGH: You say she left a horse and buggy here and things when she left? A Yes, sir, and then I was out at her father's and he told me that that was Carrie's farm.

Q Well, did her father; did she acquire this farm prior to the time she married her husband, or was it given to her afterwards? A Why he had made this farm he told me for all these children, that he had an allotment there for each child.

Q Who lives on the farm at the present time? A I think a man by the name of Frog.
Q Did Mr. Bluejacket himself live on this farm prior to the marriage of his daughter? A It was all rented, the whole farm was rented.
Q Well, the farm was known as the property of Mr. Bluejacket himself was it not? A Yes, but he had this farm made out to these children and then he give her herpart before he did.
Q And then you claim she had an interest in that farm?
A Yes, her interest was in that farm.
Q Do you know whether or not after she was married that any of the proceedings of the rent on that place went to Mrs. Carrie L. Bingham? A Well, I don't know whether it did or not; I never tried to find out anything about that.
Q Well, when she returned here for two or three months she simply came on a visit? A Why I suppose she did, she came back to her father's, she was there with herfather.

MAURICE FRAZEE, being duly sworn and examinedby Commissioner Needles, testified as follows, on part of applicant:
Q What is your name? A Maurice Frazee.
Q Wh at is your age? A I am in my 54th year--64th.
Q Post office is Vinita? A Yes, sir.
Q Do you know Carrie L. Bingham, the applicant here? A Yes, sir.
Q Well, what do you know about her residence? A Well, she married a railroad carpenter here by the name of Bingham late in the fall of '99 I should judge either November or December, because they came there and stopped there at the hotel the night they married and it was real cold weather and I understood that he was working at Denison on this road as a carpenter in the Mechanical department there and went there with her.

MR. BAUGH: Mr. Frazee, do you know whether or not, Mr. Bingham had acquired any property? A Mr. Bingham came here and married, he had been up here and working around these buildings.
Q You don't catch my question; do you know whether he owned any property in Denison, Texas, or not. A No, sir.
Q You don't know whether he owned any property or not?
A No, sir, I am told he didn't, he never owned any here until he married that woman; this girl was born here in town.

COM'R NEEDLES: Always lived here in the Cherokee Nation?
A Yes, sir.

Com'r Needles: This will be made part of the record in the case.

---oooOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this October 26th, 1901.

Commissioner.

CD#41

MAR 5 [illegible]

Supl.-C.D.#421.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of CARRIE L. BINGHAM, as a citizen of the Cherokee Nation, introduced on part of applicant:

The applicant was notified by registered letter February 10, 1902, that her case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowldged of Commission, and the applicant this day appears in person.

Mr. W. W. Hastings, Cherokee Representative, present.

CARRIE L. BINGHAM, the applicant, being duly sworn, testified as follows in her own behalf:
BY COMMISSION:

Q what is your name? A Carrie L. Bingham.
Q And your post office address? A Vinita, I. T.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Where were you living when the original application was made to the Commission? A Why I was living at Denison, Texas, at that time.
Q You now reside in the Cherokee Nation? A Yes, sir.
Q At Vinita? A Yes, sir.
Q When did you remove to the Cherokee Nation? A I moved a year ago last January, 1st of January.
Q That is 1901? A Yes, sir.
Q When were you married? A I was married in 1899.
Q Where were you living at the time? A Vinita; I have lived there all my life.
Q You afterwards moved to Denison? A Yes, sir.
Q Was your husband engaged in business at that time?
A He was employed at the shops there at Denison.
Q Is your husband also living in the Cherokee Nation at this time?
A Yes, sir.
Q Reside at Vinita with you? A Yes, sir.
Q Did you own any property in the Cherokee Nation prior to your marriage? A Yes, sir.
Q Did you derive any revenues from that property? A Yes, sir. Had a farm.
Q Did you continue to old that farm after your removal to Denison?
A Yes, sir, and I live there now.
Q Do you own it to-day? A Yes, sir.
Q Do you submit the case to the Commission for final consideration?
A Yes, sir;

Commission: The applicant and the representative of the Cherokee Nation present submit this case to the Commission, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of regard.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee-D- 421

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES. 413

In the matter of the application for the enrollment of Carrie L. Bingham as a citizen of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

The record in this case shows that on September 25, 1900, Carrie L. Bingham appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself as a citizen of the Cherokee Nation of Shawnee blood. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 22, 1902, and at Muskogee, Indian Territory, on February 26, 1902.

The evidence shows that the said Carrie L. Bingham is of Shawnee blood, and that she is identified on the 1880 authenticated tribal roll of the Cherokee Nation and the 1896 Census Roll of the Cherokee Nation as Carrie Bluejacket, her maiden name.

The evidence further shows that the said Carrie L. Bingham is a resident of the Cherokee Nation, and that she has resided in said nation all her life except for a short period of time between November 22, 1899 and January 1, 1901.

It is, therefore, the opinion of this Commission that Carrie L. Bingham should be enrolled as a citizen of the Cherokee Nation of Shawnee blood in accordance with the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory,

this JUN 9 - 1902

COMMISSION

HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-461.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Carrie L. Bingham for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the person above named as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-461.

Josephine Bluejacket
Morris Frazee -

THE MATTER OF THE APPLICATION OF

Harrie L. Bingham

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1 - Original testimony - September 25. 1900
2. Memo of application " 25. 1900
3. Marriage License and certificate
4 Receipt for testimony
5 Supplementary testimony. Oct 23, 1901

Notice of final consideration 2/24/02

6 Supplemental testimony and order closing testimony, Feb. 26, 1902

Sept [illegible] 1902 [illegible]
with decision [illegible] of
June [illegible]
Chas [illegible] 18
W [illegible] E

Cher D 422

Cher D 4.22

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 8 1900
ACTING CHAIRMAN.

D422

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 25th, 1900.

IN THE MATTER OF THE APPLICATION OF NANCY GUNTER FOR THE ENROLLMENT OF HERSELF AS A CHEROKEE CITIZEN.

The said Nancy Gunter, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Nancy Gunter.

Q What is your age, Mrs. Gunter? A I am seventy,-- in my seventy-first year.

Q What is your post office address? A Siloam Springs, Ark.

Q What district do you live in? A Well, I ain't living in any district now.

Q You are not living in the Cherokee Nation? A No, sir. I am in the states. I am a widow and I live in the states.

Q Where do you live now? A Benton County, Arkansas, at Siloam Springs.

Q Where did you used to live? A Going Snake.

Q How long have you lived at Siloam Springs? A I don't know hardly how long.

Q Are you a recognized citizen of the Cherokee Nation? A I always have been.

Q By blood or intermarriage? A By blood.

THE COMMISSIONER: The applicant presents a certificate of citizenship duly authenticated by the assistant executive secretary, under the great seal of the Cherokee Nation, certifying that one Nancy Gunter was admitted to Cherokee citizenship in the year 1880.

Q Are you the identical Nancy Gunter mentioned in this paper? A Yes, sir.

Q For whom do you apply? A For myself and my three youngest children if they have not already applied for themselves. They are all of age though.

Q Well, they must apply for themselves.

Q You just apply for yourself then? A Yes, sir.

Q You are an admitted citizen, and were admitted to citizenship in the year 1880? A Yes, sir.

Q When did you remove to the Cherokee Nation or did you ever? A I ain't yet.

Q You never have? A No, sir.

Q You have lived in the state of Arkansas since 1880, and live there at the present time? A Yes, sir; butwe have had our effects here; but I didn,t come personally.

1896 Roll, page 474, No. 1257, Nancy Gunter, nee Ward, Delaware District.

THE COMMISSIONER: The name of Nancy Gunter appears upon the census roll of 1896. She also presents a certificate of admission more specifically described in the testimony, showing that she was admitted to citizenship as a Cherokee citizen on the 14th day of January, 1880. She testifies she has not resided in the Cherokee Nation since 1880, and does not reside there at this ~~time; consequently the application for the enrollment of the said Nancy Gunter~~
time; consequently, final judgment in her application for her enrollment will be suspended, and her name will be placed upon a doubtful card.

* * *

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enroll-that he says that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 8th day of October A. D. 1900.

Commissioner.

C D422

"R"

File with Cherokee D-422, Nancy Gunter

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Nancy Gunter for enrollment as a Cherokee citizen, Cherokee D-422.

Appearances:
A.S.McKennon, South McAlester, I. T., Attorney for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 10, that her case would be taken up for final consideration by the Commission on the 26th inst. She this day appears by her attorney, A. S. McKennon, of South McAlester, I. T., and by a special request, and agreement with the representative of the Cherokee Nation the case is this day taken up for consideration.

JOHN T. GUNTER, being sworn and examined, testified as follows:

BY MR. McKENNON:

Q What is your name? A John T. Gunter.
Q What is your age? A 46.
Q Where do you live? A Vinita, Indian Territory.
Q How long have you lived in the Cherokee Nation? A Since '79.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Have you held any office in the Cherokee Nation? A Yes sir.
Q What is it? A I was member of the Cherokee Senate at one time, elected in 1895
Q Are you a son of Nancy Gunter? A Yes sir.
Q Is she living? A Yes sir.
Q About what is her age? A Near 70 years old I suppose, I don't know exactly.
Q Is she the same Nancy Gunter who was admitted to citizenship in the Cherokee Nation January 14,1880? A Yes sir, that is my mother.

BY COMMISSION: It appears from the records of the Cherokee Nation that the following record appears in the docket of the Cherokee Commission on Citizenship:

"Commission on Citizenship, Case No.5.
Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
vs
The Cherokee Nation.
(Petition for citizenship January 14,1880.)

The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee citizenship.

Roach Young, President Com.
William Harnage,
G. W. Mayes, Associate Com.
J.B.Mayes, Clerk Commission."

This entry appears upon page six.

Q Are you the same J. T. Gunter whose name appears in that record? A Yes sir.
Q Where is your mother now? A She is over in Arkansas, Benton County.

Q Did she ever reside in the Cherokee Nation? A Yes sir.
Q When? A She was born in the Old Nation.
Q Where? A In Georgia.
Q Very well, go ahead and make a statement.
BY MR. HASTINGS: I am going to object to any statement prior to this admission, because there is no need to go behind that.
Q When did she come to the Nation? A She came with the Old Settler Cherokees I think, about the year 1835, I have been told, I don't know as to that.
Q How long did she reside here then? A -
BY MR. HASTINGS: Comes now the Representative of the Cherokee Nation and protest against taking of any testimony prior to the date of the admission of the applicant to citizenship in the Cherokee Nation, to-wit: on January 14,1880, because the same is irrelevent and immaterial. The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date was entitled to all the rights and privileges of any other Cherokee citizen, and therefore, it cannot be seen why it is pertinent to go behind that date.
BY MR. McKENNON: This being admitted by the Representative of the Nation, I withdraw the question.
Q Now then after her admission, where has she resided? A Mostly in the State of Arkansas.
Q Did she have any property in the Nation at the time she was admitted? A Yes sir.
Q What? A Horses and cattle and little improvement in Cooweescoowee District.
Q An improvement upon lands? A Yes sir.
Q Did she retain that property in the Nation after her admission
A Yes sir.
Q Did she ever remove all of her effects out of the Nation after she was admitted? A Not after she was admitted, no sir. She has always had effects here since that time; her stock of cattle, branded "N.G."
Q Did she own a farm in the Nation? A At that time she was admitted she did not; she did after that.
Q For how long? A Well up to the present time.
Q She still holds a farm in the Cherokee Nation? A Yes sir.
Q Has she all the while been recognized as a Cherokee citizen?
A Yes sir.
Q At the time of her admission did she have living any minor children whose names were not mentioned in the record of the Commission admitting her? A Yes sir, had three children.
Q What were their names? A Amy, Fannie, Caldeen.
Q What is Amy's name now? A Amy Frazier.
Q Whatis the name of her Husband? A Samuel Frazier. Her name is Sarah A. Frazier.
Q Is that the same Samuel Frazier whose application is numbered 419? A I suppose it is, yes sir.
Q The other sister, whose name is Nannie A., who is she now? A Mrs. James Alfrey.
Q That the wife of James S. Alfrey? A Yes sir.
Q Who is Caldeen? A He is the youngest child of Nancy Gunter.
Q Are these all residing in the Cherokee Nation now? A Yes sir.
Q How long have they resided in the Cherokee Nation? A Since '88.
Q All the while? A Yes sir. My brother has been out now attending to some business of father's estate.
Q But his residence is in the Cherokee Nation? A Yes sir.
Q Have these three since the admission of their mother been enrolled as Cherokee citizens? A Yes sir.
Q And always recognized as such? A Yes sir. Drew money in every payment; my brother Caldeen I think has voted a number of times in the Cherokee Nation; so has Mr. Frazier and Mr. Alfrey.

BY MR. HASTINGS:

Q Your mother lives in Siloam Springs, Arkansas? A Yes sir, Siloam Springs, Benton County, Arkansas.

Q She has always maintained a residence there? A Yes sir.

Q When did she first purchase an improvement in the Cherokee Nation? A In the fall of 1880.

Q Does she own the same improvement yet? A No sir, she does not own that same improvement yet.

Q What disposition was madeof the first improvement? A I sold it

Q When? A In 1882.

Q When did she acquire another one? A In 1882, right away, Delaware District.

Q The same year? A Yes sir.

Q Has she that improvement yet? A Yes sir.

Q Where is it lowated? A In Delaware District, Cherokee Nation.

Q Your father is dead, I believe? A Yes sir.

Q He died in Siloam? A Yes sir.

Q Place your mother now lives? A Yes sir.

Q Has Mrs. Alfrey continuously resided in the Cherokee Nation since 1880? A I don't know, I think maybe she has been out, once or twice.

Q Has Mrs. Frazier continuously resided in the Nation since that time? A Yes sir.

Q Has your younger brother Caldeen? A Yes sir.

BY MR. McKENNON: I will ask that a copy of that testimony be filed with each of the cases, No.D-412, case of Caldeen Gunter, D-419, case of Samuel Frazier andothers and D-315, case of James S. Alfrey, and others.

BY COMMISSION, of Mr. McKennon: You are representing these four cases are you? A Yes sir.

BY COMMISSION: The request of the attorney for the applicants will be complied with, and the testimony made a part of the record in the cases mentioned.

Attorney for the applicant, Nancy Gunter, and Representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 25,1902.

C. R. Breckinridge

Commissioner.

D. 422.

Nancy Gunter

Application for
Enrollment as
Cherokee Citizen

Brief for Applicant

A S McKennon,
Atty for Applicant

Before the Honorable Commission to the

Five Civilized Tribes, At Muskogee, I. T.

In Re Application of Nancy Gunter for enrollment as a Cherokee Citizen, D-422.

The facts appearing upon the face of the record show that Nancy Gunter was born in the old Cherokee Nation, in the State of Georgia; and that she removed thence to the Cherokee Nation, about the year 1835, with the old Settler Cherokees; that she resided there and acquired property and improvements on Cherokee lands; and that she held a lot of personal property in the Nation; that she removed to Benton County, Arkansas, where she has resided ever since; but did not take with her all her effects, having all the while owned improved lands in the Cherokee Nation, and held personal property there until the present time. She and all her children, except three minors, viz: Amy, Fanny and Caldeen, were readmitted to citizenship, as Cherokees, on the 14th day of January, 1880, by the Cherokee Citizenship Commission, whose authority in this behalf is not questioned. The record of their admission, appearing on page 6 of the Cherokee Commission's record, is as follows:

> "Commission on Citizenship, Case No.5.
> Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler, J. T. Gunter and Lucy Jane Portner,
> vs
> The Cherokee Nation.
> (Petition for citizenship, January 14, 1880.)
>
> The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Portner to all the rights and full privileges of Cherokee citizenship.
>
> Roach Young, President Com.
> William Harnage,
> O. W. Mayes, Associate Com.
> J. B. Mayes, Clerk Commission.

This record shows that said Nancy Gunter is "a Cherokee by blood, also native born", and since the date of her readmission it does not appear that her citizenship, or that of any member of her family, has ever been questioned, until objection to her enrollment was made by the Cherokee Representatives before the Commission to the Five Civilized Tribes, September 25, 1900. She was duly enrolled by the Cherokee authorities, her name appearing upon the 1896 roll, page 474, No. 1257.

The provision of the Cherokee Constitution as to citizens removing from the Nation, and thereby loosing their citizenship, is as follows:

> "Whenever any citizen shall remove, with his effects, out of the limits of this Nation, and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease; provided, nevertheless, that the National Council shall have power to readmit, by law, to all the rights of citizenship, any such person or persons who may at any time, desire to return to the Nation, on memorializing the National Council for such readmission."

One who has resided in the Cherokee Nation, and was duly recognized as a citizen thereof, in order for his removal beyond the limits of the Nation to work a forfeiture of his right to citizenship, under the provisions of the Cherokee Constitution, must, upon removal, carry with him all his effects, and in addition thereto become a citizen of another state. Mrs. Gunter did not carry all her effects with her. She always had effects in the Cherokee Nation. This, alone, would save to her the right to citizenship. But there is no evidence that she became a citizen of the State of Arkansas, in which she resided. In fact she did not, and could not, so long as she retained her citizenship in the Cherokee Nation, which we contend the record fully shows in this case. She should therefore be duly enrolled by the Commission.

Respectfully submitted,
A S McKennon
Atty for Applicant

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. April 9th 1902.

No Cherokee D 422.

In the matter of the application ofNancy Hunter for enrollment as a citizen of the Cherokee Nation.

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Brief of the Cherokee Nation.

The testimony in this case shows that applicant was admitted to citizenship in the Cherokee Nation by a citizenship court in the year 1880; that at that time she was residing in Benton County Arkansas where she has continued to reside since that time and where she is residing at the present time.

Section 21 of the Curtis Bill provides that "no person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

There is no contention by the applicant that she has ever removed to and in good faith settled within the limits of the Cherokee Nation but she has kept up a continuous residence in the state of Arkansas ever since her readmission to citizenship. Counsel for applicant cites the Cherokee Constitution with reference to forfeiture of her citizenship but the Commission is reminded that she never acquired citizenship in the Cherokee Nation because she never removed to and locatedin the Cherokee Nation and therefore she never had any citizenship to forfeit.

He contends that inasmuch as she came from the old Cherokee Nation with the old settler Cherokees that she never forfeited her citizenship but she recognized that she had forfeited her citizenship by applying to the Commission in 1880 to be readmitted as a citizen of the Cherokee Nation. We do not see how she can be enrolled under the section of the Curtis Bill giving this commission jurisdiction herein above quoted.

Respectfully submitted,

Attorney for the Cherokee Nation.

Cherokee-D-422

7716

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Gunter for the enrollment of herself as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, the applicant, Nancy Gunter, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for enrollment of herself as a citizen by blood of the Cherokee Nation. Further testimony was submitted in this case on February 25, 1902 at Muskogee, Indian Territory.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of the Commission that Nancy Gunter was admitted to citizenship in the Cherokee Nation, January 14, 1880. She is identified on the 1896 Census Roll of the Cherokee Nation, page 474, No. 1267. It further appears that the applicant, Nancy Gunter, has not removed to and in good faith settled in the Cherokee Nation since the date of her admission to Cherokee citizenship and that she was not a resident of the Cherokee Nation on January 14, 1880.

The authority of the Commission herein is defined in Par. 9, Sec. 21, of the act of Congress, June 28, 1898 (30 Stats., 495):

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Nancy Gunter is not lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for her enrollment as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
Application of Nancy Gunter for :
enrollment as a Cherokee citizen.)

----oOo----

MOTION FOR REVIEW AND REHEARING.

Now come the attorneys for the above named applicant and move that the decision of the Department in said cause be set aside, and that a rehearing and review of said cause be granted and had for the following reasons:

The Commission to the Five Civilized Tribes and the Commissioner of Indian Affairs have held that the ruling in the Yeargain case is the one applicable to the claim of this applicant. The Department in its decision based its rejection upon the Allie Williams case. The following statement of the Allie Williams case will show conclusively that it has no application whatever to this case.

Allie Williams was born in Tennessee and was admitted to citizenship in the Cherokee Nation in 1892, when more than twenty-one years of age. She did not remove to the Nation at all and never lived in the Nation until 1896, or more than six months after December 4, 1894. The sole question for consideration was as to whether she had ever acquired citizenship in the Nation at all. The Assistant Attorney General held that she never acquired citizenship in the Nation at all; that the act granting her citizenship was modified by the act of December 4, 1894, which required a removal within six months after the passage of the latter act, with which requirement she did not comply, for which reason, as before stated, she never became a citizen of the Cherokee Nation at all. The case is distinguished from the Ora Camp and Martha Hill cases in this, that Ora Camp, when admitted, was a minor and the act of December 4, 1894, by express exception does not apply to her, and that Martha Hill never having been admitted, the act in terms did not apply to her, as it purported to apply only to those theretofore or thereafter admitted. We do not see how anyone reading this decision in the Allie Williams case can come to any conclusion other than that it applies solely to the question as to whether or not a person acquired citizenship, and that it has no application whatever in testing the question as to whether or not a person who has once acquired citizenship in the Nation has lost it.

There is no doubt that the Yeargain case is the leading case of binding force upon this Department on the question as to whether or not a person having once acquired the status of citizenship in the Cherokee Nation has lost it; and we here give the facts in Mrs. Gunter's case which conclusively show that, on January 14, 1880, she was a citizen of the Cherokee Nation entitled to all of the rights and privileges, with her status as firmly established as that of any other citizen in the Nation, so that the only question in her case that can properly be considered is as to whether or not she has done some act by which she has forfeited that right under the Cherokee law.

In this connection, we submit that the finding of the Department as to her residence has not been fair to her under the evidence of record in her case. The Department found that she is a Cherokee by blood and removed to the Nation with the old settlers in 1835, which is true. It then says, "That she resided there for a number of years, and then removed to Arkansas, [illegible] she has since resided," which is also true, but is not all of the truth, and in so far as it falls short of being all of the truth, the finding is unfair to her. The following is shown by the record!

John T. Gunter testified that she removed to the Nation with the old settlers, from Georgia, in 1835. A question was asked him by the applicant's attorney which would prove how long she resided in the Nation, when Mr. W. W. Hastings, attorney for the Nation, protested, saying, "The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date (January 14, 1880) was entitled to all the rights and privileges of any other Cherokee citizen, and, therefore, it cannot be seen why it is pertinent to go behind that date."

By attorney for applicant: "This being admitted by the representative of the Nation, I withdraw the question."

Either Nancy Gunter must be considered to have been, on January 14, 1880, entitled to all of the rights and privileges of citizenship, or else she has been deprived in this way of the opportunity of proving that status to have then existed. Either the admission of the attorneys for the Cherokee Nation in the trial of the cause are binding upon the Nation, or they are not binding. If they are binding, she was a citizen on January 14, 1880, or the Department should have referred the cause back for testimony on that point before holding that she had never acquired the right of citizenship. The attorney who took the testimony and ourselves have considered the admission of the attorney for the Nation to be binding, as the result of which, he withdrew the question, and we have announced to the Commission that we did not desire to take any more testimony. The Commission and the Commissioner of Indian Affairs have also considered the admissions as binding. Now, if they are not binding, common fairness to the applicant demands that that fact be announced and that we be given an opportunity to prove a fact, which proof we had every reason to consider to have been dispensed with by the admission. We submit that if the attorneys for the Nation have not the right to make admissions of this character in the record, then their position is one of far less importance and authority than it has been considered heretofore by the Department, the Office of Indian Affairs, the Commission, the Nation, or the attorneys themselves, and is an anomaly in judicial proceedings.

We insist that the evidence is demonstrative that on January 14, 1880, Nancy Gunter enjoyed the status of citizenship in the Cherokee Nation without any qualification whatsoever. That being so, the Allie Williams case has no application, because the Allie Williams case applies only when considering the question as to whether or not the applicant has ever acquired citizenship, and has no application as to whether or not an applicant has lost citizenship.

We further insist that since January 14, 1880, this applicant has done no act which works a forfeiture of her citizenship rights under the rulings of the Department, the Assistant Attorney General, the Office of Indian Affairs, or of the Commission in any case adjudicated since the ruling laid down in the Yeargain case, it being clear from the record that she has not become a citizen of any other government, and that during the whole of the time of her absence from the Nation she has owned personal property in the Nation and has held a farm and still holds a farm in the Nation.

Upon the above showing we respectfully ask a reconsideration of this case, confidently expecting the enrollment of the applicant.

Respectfully submitted,
Harry G. Kimball
Wm Henry White
JEC.
Attorneys for Applicant.

IN THE DEPARTMENT OF THE INTERIOR,

Washington.

In re: Application for the enrollment of Nancy Gunter as a Cherokee Citizen.

Cherokee D # 422
Transferred to Cherokee
R # 657.

Protest against Applicants Motion for Review and Rehearing.

The Department decided in this case on February 26, 1904 that the applicant in this case was not entitled to be enrolled as a citizen of the Cherokee Nation. This decision we think was a correct one.

The Motion for rehrearing and Review filed by Counsel for applicant should be denied, Because:

The testimony shows that the applicant Nancy Gunter was readmitted to citizenship in the year of 1880 but her name was not placed upon the authenticated roll of 1880 and the testimony shows that Nancy Gunter was a resident of the State of Kansas at the date of her admission and that she has never since that date lived one day in the Cherokee Nation but on the other hand it shows that she was a resident of the State of Arkansas at the date of her admission and prior thereto and that she never did remove to the Cherokee Nation and we think that the very able opinion of the Assistant Attorney General in the case of Mary L. Strickland et al rendered March 12, 1904 (I. T. D. 934-1904) applies to this case and conclusively shows that this applicant should be denied.

For more than twenty years the applicant resided in the State of Arkansas with her husband who was a citizen and resident of that state and she never did remove to the Cherokee Nation and as was held by the Attorney general in the above decision she is barred by that clause of the Curtis Bill which provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

And under that provision of the Cherokee Laws of December 4th 1894 quoted in our briefs already filed in this case.

In this connection the opinion of the Assistant Attorney general in the case of Julia A. Moore et al rendered March 12, 1904 (I. T. D. 4782[illegible] 6526; 8302-1903 and 92-1904) conclusively shows that this applicant should not be enrolled. The legal points involved in this case are parallel in every respect except that the Julia A Moore case so far as residence was concerned was a much stronger case than the one under consideration.

In addition to the case above cited the attention of the Honorable Secretary of the Interior is called to the decisions of the Department in the case of Allie Williams and Berley F Geuy et al, (Cherokee Enrollment cases heretofore referred to in our briefs) Under the decision in these cases we think it is clear that the application for enrollment in the case under consideration was properly settled by the Department in its decision on February 26,, 1904 and for these reasons we believe that the motion for review and rehearing should not be allowed.

Respectfully,

Attorney for the Cherokee Nation.

IN THE DEPARTMENT OF THE INTERIOR.

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In re)
Application of Nancy Gunter :
for Enrollment as a Citizen)
of the Cherokee Nation. :

----oOo----

ANSWER TO PROTEST OF CHEROKEE NATION.

We desire to call attention to the following from this protest:

> The testimony shows that Nancy Gunter was a resident of the State of Kansas at the date of her admission and that she has never since that date lived one day in the Cherokee Nation, but on the other hand it says that she was a resident of the State of Arkansas at the date of her admission and prior thereto, and that she never did remove to the Cherokee Nation, and we think that the very able opinion of the Assistant Attorney General in the case of Mary L. Strickland et al. x x x applies" etc.

This remarkable utterance upon analysis reveals the following marvelous results:

1. She was a resident of Kansas when admitted.
2. She was a resident of Arkansas when admitted.
3. She never removed to the Cherokee Nation.

The testimony, however, is that she removed to the Cherokee Nation with the old settlers from Georgia in 1835. At this point the attorney for applicant was offering to prove how long she continued to reside in the Nation when Mr. Hastings (whose signature appears to the protest), attorney for the Nation, protesting, said

> The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date (January 14, 1880) was entitled to all of the rights and privileges of any other Cherokee citizen and, therefore, it cannot be seen why it is pertinent to go behind that date.

We have already briefed the point that the attorneys for the Nation had a right to stipulate in this matter and thus dispense with proof of her residence in the Nation from 1835 until after her admission. Clearly, it is improper for the attorneys for the Nation to undertaked at this time, having the above record before them, to try to take advantage of a condition brought about by their own admission of record.

The other matters of the protest of the Cherokee Nation have been fully covered by our briefs filed at various times in this cause.

Respectfully submitted,

Harry G. Kimball

Attorneys for Applicant.

Cherokee D #428 (2657)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Nancy Gunter as a citizen by blood of the Cherokee Nation:

DECISION

The record in this case shows that on September 28, 1900, Nancy Gunter appeared before the Commission at Vinita, Indian Territory, and made personal application for enrollment as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 25, 1902. On May 20, 1902, the Commission rendered a decision in the matter of said application and forwarded the same to the Department of the Interior for approval, and the Department approved said decision on July 30, 1902, and, under date of May 1, 1903, returned said record to the Commission for readjudication.

The evidence shows that the applicant, Nancy Gunter, is a Cherokee by blood; that she removed to the Cherokee Nation with the old settler Cherokees in about 1835; that she resided therein for a number of years and then removed to the state of Arkansas, where she has since resided.

The evidence further shows that the said Nancy Gunter was admitted to citizenship in the Cherokee Nation on January 14, 1880, by the duly constituted authorities thereof. She is identified on the 1896 census roll of the Cherokee Nation as a native Cherokee.

The evidence further shows that since the removal of said applicant to the state of Arkansas, she has owned valuable improvements and personal property in the Cherokee Nation; that she owned said improvements at the time of her admission on January 14, 1880, and has since continuously owned personal property in said nation.

Cherokee D #422

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D 937 (I.T.D. 2900-1903), that the said Nancy Gunter should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). ____________________
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this SEP 5 - [illegible]

Cherokee D #422.

(R 657.)

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Tahlequah, I. T. September 15th 1903.

In the matter of the application for the enrollment of Nacy Gunter as a citizen by blood of the Cherokee Nation.

It appears from the records in this case that on May 20th 1902 a decision was rendered denying this application and that decision was affirmed by the Department. A motion was filed by the applicant for a rehearing in the light of the decision of the Department in the yeargain case and the case was remanded for a further hearing and now a decision is rendered signed by a majority of the Commission to the Five Civilized Tribes ordering Nacy Gunter enrolled as a citizen of the Cherokee Nation by blood--said decision being dated September 5th 1903.--- From which decision the Cherokee Nation now prays an appeal to the Honorable Secretary of the Interior.

It appears from the testimony and the records that Nancy Gunter was admitted to citizenship by the Cherokee Nation, January 14th, 1880. That is is enrolled on the 1896 census roll only; It further appears from the testimony that she was not living in the Cherokee Nation at the time she was readmitted to citizenship therein nor has she at any time since that time removed to and in good faith settled in the Cherokee Nation that she has continuously resided in Benton County Arkansas since her readmission and was residing there prior to and at the date of her readmission to citizenship in the Cherokee Nation.

It further appears that she was a resident of the old Cherokee Nation and it does not appear that she has ever had any permanent home in the

Cherokee Nation as new constituted. The testimony of John T. Gunter is to the effect that she wasborn and lived in the old Cherokee Nation in Georgia.

It is admitted in this case that this applicant was a resident of the State of Arkansas when she was readmitted to citizensh p in the Cherokee Nation that she has continued to reside in the State of Arkansas since that time and still resides there .

Section 21 of the Act of Congress dated June 28th 1898 provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

We contend that Congress had in mind just such a case as this when it passed this act requiring all persons who were applicants for enrollment as citizens of the Cherokee nation to remove to and in good faith settle in the Cherokee Nation prior to the passage of this act. It is admitted that Nancy Gunter nevr complied with the provisions of this act; it is true that the testimony shows that she purchased a farm in the Cherokee Nation and at one time had some cattle on it but it is plain to our mind that she never intended to make the Cherokee Nation her home; she never did remove with her effects to the Cherokee nation after she was readmitted nor has she pretended to make any permanent settlement in the Cherokee Nation.

It is contended that inasmuch as Nancy Gunter came from the Old Cherokee nation with the Old Settler Cherokees that she never forfeited her citizenship but she recognized that she had forfeited her citizenship by applying to the Citizenship Commission in 1880 to be readmitted as a citizen of the Cherokee Nation and having been readmitted it was incumbent upon her to remove to and in good faith settle in the Cherokee nation because the act of the Cherokee National Council of December 4th 1894 provides:

> That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation, within six months after the passage of this act or from the date of the readmission of persons hereafter readmitted or no rights whaterver shall accrue to such persons by reason of such readmission, provided that nothing in this act shall bar minors and orphans."

The applicant in this case wholly failed to comply with the provisions of this act and having therefore never acquired any citizenship in the Cherokee Nation by not removing to and permanently settleing in the Cherokee Nation has no citizenship to forfeit and there was no law authorizing the Census takers to place her name upon the 1896 Census roll and her enrollment upon this roll is clearly "Without Authority of law" and her name should now be omitted.. It is a well known fact that there are many names upon the 1896 census rolls without authority of law and for this reason the Cherokee National Council refused to authenticate this roll. The revising Committees of the National Council undertook to make this roll but could not complete it in so short a time-- thirty days . itcwuld not be expected that the National Council, a large unweildy body, could make a correct roll of Cherokee citizens in thirty days when it will be observed that the Commission to the Five Civilized Tribes has been engaged in making a roll of Cherokee citizens since May 11 1900 with the work at this time far from completion.

The Commission held in the case of Berley E. Geuy et al (Cherokee D # 831), on November 20th 1902, that the act of the National Council of December 4th 1894 was binding upon it and rejected the applicant in that case because she failed to comply with the requirements of that act; the applicant Nancy Gunter is unquestionably in the same attitude as Berley E. Geuy with respect to this act with the possible exception that Nancy Gunter had a farm and some cattle in the Cherokee Nation but she (Nancy Gunter) never permanently located within the limits of the Cherokee Nation .

The act of Congress of June 10th 1896 provides that the United States Commission shall respect all laws of the several tribes or nations not inconsistent with the laws of the United States, in making the rolls of citizenship of the several tribes. The act of December 4th 1894 is an act of the Cherokee National council and we most earnestly contend that it should be respected.

The Applicant Nancy Gunter never having acquired any rights of citizenship in the Cherokee Nation we do not believe that she should be enrolled as a citizen of the Cherokee Nation.

Respectfully,

W W Hastings J.T.S

Attorney for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee I. T. September 21, 1903.

Cherokee D. # 422.

In Re:

Application for the enrollment
of Nancy Gunter as a citizen
of the Cherokee Nation.

Supplemental Brief on part of the Cherokee Nation.

In addition to the argument made in the protest of the Cherokee Nation in this case we desire to add in behalf of the Cherokee Nation the following remarks:

FIRST:

The record in this cases discloses that Nancy Gunter, after coming west from the old Cherokee Nation lived in Goingsnake District Cherokee Nation at one time and afterwards removed to Benton County Arkansas making her home in Siloam Springs in the State of Arkansas where she continued to reside up to the time she realized that she had forfeited her citizenship in the Cherokee Nation and applied to the Cherokee Tribal authorities for readmission to citizenship in the Cherokee Nation. The testimony of John T. Gunter attempts to leave the impression that Nancy Gunter had a farm and valuable improvements in the Cherokee Nation when she was admitted on January 14th 1880, but a careful perusal of this testimony further discloses that she owned no farm at that time but perhaps had some horses and cattle on the range. It will be observed that John T. Gunter was asked the following question, " Q Did she own a farm in the Nation?" and he answered " At that time she was admitted she did not; she did after that." Again he was asked in the testimony "When did she first purchase an improvement in the Cherokee Nation?" And he answered " In the fall of 1880." Then follows a statement by the witness that he sold this improvement and she purchased another one in 1882 which she has owned since. Witness also states that he was a son of Nancy Gunter and that his father died in Siloam Springs Arkansas.

We contend that inasmuch as the testimony shows that Nancy Gunter has resided in the State of Arkansas continuously since her admission on January 14, 1880 and long prior theretothat she is not entitled to enrollment.As to the citizenship of her husband the testimony is indefinite but it is a fact well known to the People of the Indian Territory, that he was a citizen of the State of Arkansas, and the records of the Commission shows that he was never recognized as a citizen of the Cherokee Nation; it is a further well known fact that Nancy Gunter married a citizen of the State of Arkansas and went to his home in Arkansas and lived with him until he died recently; all of her children were born in the State of Arkansas and those that were of age were readmitted with their mother, the applicant herein on January 14th 1880 and by applying for this this readmission they admitted that they had forfeited their citizenship in the Cherokee Nation at that time; they had entirely disconnected themselves with the tribe and their identity as x members of the Cherokee Nation was so completely lost at that time that their names were not placed upon the 1880 authenticated roll of Cherokee citizens.

The husband being a citizen and resident of the State of Arkansas the citizenship ofNancy Gunter was that of her husband during his life time, namely, a citizen of the State of Arkansas. It is not claimed that her husband was a citizen of the Cherokee Nation.It is a well established principle of law that the citizenship of the wife follows that of the husband and in this instance when Nancy Gunter married a citizen of Arkansas and went to that state and lived with him until his death she became a citizen of Arkansas .

Second:

Counsel for applicant in his brief argues that Nancy Gunter "retained he rpossession and use of improvements upon that part of the National lands that she had before going to Arkansas". We contend that the testimony shows that she purchased her improvements in the fall of 1880 after she was readmitted and did not have any home in the Cherokee Nation nor improvements prior to her readmission nor at the time of her readmission on January 14th 1880. Having lost her identity as a member of the Cherokee Nation, she admitted that she had forfeited her citizenship in the Cherokee Nation by applying for readmission; the Cherokee Nation at that time recognized that she had forfeited her citizenship in the Cherokee Nation and refused to place her name upon the authenticated roll of 1880 until memoralized the National Council for readmission under the Constitution of the Cherokee Nation or applied to a citizenship court established by authority of the National Council; no doubt but that she applied to the census takers who were making the roll in 1879 which is now known as the authenticated roll of 1880 and was refused enrollment and then she applied to the citizenship court for the remedy--towit readmission in the Cherokee Nation.

Third:

After the applicant was readmitted to citizenship in the Cherokee Nation it was necessary for her to actually remove to and in good faith settle in the Cherokee Nation.

In 1894 the Cherokee National Council knowing that there were a great number of people who had been readmitted by the various citizenship Courts and by acts of the National Council but who were continuing to reside without the limits of the Cherokee Nation and in order to require this class of persons to perfect their citizenship passed the Act of December 4th 1894:

> "That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of readmission of persons hereafter readmitted, or no rights wha ever shall accrue to such persons by reason of such readmission; Provided, that nothing in this act shall bar minors and orphans."

This applicant, Nancy Gunter, was readmitted to citizenship in the Cherokee Nation on January 14th 1880, and has been a continuous resident of the State of Arkansas since that time; her admission as a citizen of the Cherokee Nation on January 14th 1880, became subject to the provisions of the Act Approved December 4th 1894, upon that act becoming law, and as she did not remove within six months from the date of the approval thereof (And in fact never did remove to the Cherokee Nation) she is not entitled to enrollment.

Reference is made to the decision of the Department and the recommendations of the Commissioner of Indian Affairs in the case of Allie Williams Regular Cherokee Card Field Number [illegible], afterwards transferred to Cherokee Rejected Card No R. [illegible]--The Commissioner of Indian Affairs makes his recommendations as of date March 3, 1903, (Land 10237--1903) and the Departments letter is dated March 10, 1903 (I. T. D 2346--1903.) In that case the applicant Allie Williams was admitted by an act of the Cherokee National Council approved December 2, 1892, at which time she was of age, that she removed to and settled in the Cherokee Nation in 1896 and was rejected by the Commission to the Five Civilized Tribes because she failed to comply with the Act of December 4th 1894, hereinbefore quoted. This decision was approved by the Department on March 10th 1903.

Reference is further made to the case of Berley E Geuy et al Cherokee D # 831, transferred to Cherokee R #815; this case is where the applicant Berley E. Geuy was admitted to citizenship when she was a minor; that she was of age at the adoption of the Cherokee Act of December, 4th 1894, and became subject to its provisions; that she did not locate permanently in the Cherokee Nation within six months from the date of the passage of that act; she was admitted in 1887; the Commission held that she was not entitled to enrollment; this decision was affirmed by the Department. The letter of recommendation by the Commissioner of Indian Affairs is dated December 13, 1902 (Land 71264--1902.) The Departments letter is dated December 23, 1902 (I. T. D 4990--1902; 7643--1902; 7716--1902)

The opinion of the Commission in the case at bar states that "Followin the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D 937 (I. T. D. 2900-1903) that the said Nancy Gunter should be enrolled as a citizen by blood of the Cherokee Nation etc"

We see no reason for the decision in the case at bar following that of the Yeargain case, referred to by the Commission in its decision; in the Yeargain case the two Principal applicants were born and reared in the Cherokee Nation; were on every roll made by the Cherokees since their birth; had their homes and much valuable property in the Cherokee Nation at all times; had their effects there and voted at all of the Cherokee elections and participated in all of the Cherokee Governmental affairs; one was a member of the Cherokee National Senate in 1896 and the other a census taker who assisted to make the 1896 roll in Delaware District; they engaged in the mercantile business in Southwest City Mo some four or five years ago, within a stones throw of the Nations line, but retained their farms personal property and effects in the Cherokee Nation and never at any time disconnected themselves with the Cherokee Nation; never at any lost their identity as a member of the Cherokee Nation; held offices in the Cherokee Nation while they were engaged in business in Southwest City, Missouri and voted at every Cherokee election held thereafter and conducted a mercantile business at Grove in the Cherokee Nation at the same time.

A different state of facts occur in the case at bar; Nancy Gunter after she came to the Cherokee Nation with the old settler Cherokees about 1835, soon thereafter married her husband a citizen of the State of Arkansas and went to that state to make her future home; she realized that she had forfeited her citizenship in the Cherokee Nation and applied for readmission and was readmitted on January 14th, 1880 --her name does not appear upon the 1880 roll nor upon any roll except the 1896 roll and in face of the act of the National Council of December 4th 1894, herein before quoted there was no authority of law for placing her name on that roll; she resided with her husband in Arkansas until his death and still resides in that state; she has wholly failed to comply with the act of December 4th 1894 which required her to remove to and locate in the Cherokee Nation within six months after its passage; she became subject to this act and failed to comply with it.

We see no similarity between this case and the Yeargain case; we believe that Congress had in mind just such a case as the one at bar when it enacted that section of the Act of Congress approved June 28, 1898:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

It seems to us that this applicant should not be enrolled because she has violated the provisions of both the Act of the Cherokee National Council of December 4th 1894; and the Curtis act above quoted; no doubt both these acts were intended to fit just such cases as the one at bar.

Reference is also made to the letter of the Honorable Acting Secretary of the Interior dated March 25,1903 (I. T. D. 1418--1903) reversing the decision of the Commission to the Five Civilized Tribes in the case of Ora M. Bonds et al Cherokee D-838. The applicants in that case were minors when they were admitted; the Principale applicant came to the

Cherokee Nation in 1900 when she was just twenty-one years old and the other applicant still a minor; they were denied enrollment by the Commission under that clause of the Curtis bill which provides that no person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship. The Department held in this case, after calling attention to the decision of the Department in the case of Clement G. Clarke, of March 17, 1903, and to the opinion of the Assistant Attorney General of March 16th 1903, in the Yeargain case, that apparently the Commissions decision could not be sustained upon the grounds on which it was based (To wit Paragraph 9 Section 21 of the Curtis Act) and it was also held in this case that because of the fact that Ora M. Bonds came to the Cherokee Nation when she was twenty-one years of age and James M. Camp being still a minor, that it was evidently the intention of the National Council in the act of December 4th 1894 to allow minors a resonable time in which to locate in the Cherokee Nation after reaching their majority and for these reasons the applicants in that case did not become subject to the conditions of the act of the Cherokee Council of December 4th 1894, because it contained a clause which protected the applicants in that case towit: "Provided that nothing in this act shall bar minors and orphans."

Apply the recommendations of the Commissioner of Indian Affairs to the case of Nancy Gunter and webelieve the Commission would not be sustained in its decision ordering the applicant enrolled. The Departments Decision in the Ora M. Bonds case was made after the decision of the Assistant Attorney General in the Yeargain case and in view of the holdings of the Department in the cases above cited and in the Ora M. Bonds case we do not believe the Commission decision ordering Nancy Gunter enrolled as a citizen of the Cherokee Nation should be sustained but we believe the Department will reverse this erroneous decision of the Commission to the Five Civilized Tribes and deny the enrollment of this applicant who refuses to comply with the act of December 4th 1894 and the section of the act of Congress above quoted

Respectfully,

Attorney for the Cherokee Nation.

1

IN THE DEPARTMENT OF THE INTERIOR.

In re
Application of Nancy Gunter
for enrollment as a citizen
of the Cherokee Nation.

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Brief for applicant.

The record in this case shows that the applicant, Nancy Gunter, is a Cherokee by blood; that she came to the Indian Territory with the old settler Cherokees from Georgia in 1835; that she remained there until 1880, when she removed to Siloam Springs, Arkansas, where she has continued to reside.

When she left the Cherokee Nation she owned improvements on land in the Coowescoowee District, Cherokee Nation, and a number of horses and cattle and other property. She did not remove all of her effects out of the Cherokee Nation and ever since has had property there, including stock and cattle branded "N. G.", which are her initials.

There is no evidence of any act of hers even indicating that she became a citizen of any other government.

This applicant was rejected by the Dawes Commission under paragraph nine of section twenty-one of the Curtis Act, which provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

That decision, however, was made prior to the opinion of Judge Van Devanter in the Yeargains cases approved March 16, 1903, from which we here quote;

"It was therefore against those who had never identified themselves with the Nation and those who had withdrawn themselves from the Indian people that this provision of the statute was aimed. It was for the protection of the Cherokee people and in harmony with the provisions of the Cherokee Constitution. That instrument defines how Cherokee nationality shall be lost or forfeited, viz:

> That whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease.......

There are three elements clearly defined which must concur to effect forfeiture of nationality, or complete expatriation -- viz: removal of the person, coupled with removal of all effects and property, and acquisition of another nationality by assuming the obligations of citizenship there. To those tests and for their construction there is also another, implied but not mentioned -- viz: the intent with which such acts be done, for if all property and the person were for some temporary purpose removed from the Nation, and if acts were done which might bear the construction of assuming obligations of citizenship in another community -- as voting there for instance -- yet if the removal of person and property were for some temporary purpose and with intent to return, and the acts implying an assumption of duties of citizenship elsewhere had no such purpose, then the change of citizenship would not follow."

"Applying such tests to the facts in the present case, it is clear that Nancy Hunter had not lost her Cherokee nationality. She retained considerable of her personal property in the Cherokee Nation, contributing to and co-operating in its material development. She retained her possession and use of improvements upon that part of the national lands that she had before going to Arkansas."

We therefore respectfully submit that the application of Nancy Gunter was erroneously denied and that she is entitled to be enrolled as a citizen of the Cherokee Nation.

Respectfully submitted,

Harry G. Kimball

Wm. Henry White

Attorneys for Applicant.

In re Application
of Nancy Gunter
for Enrollment as
a citizen of the
Cherokee Nation

Brief for Applicant.

IN THE DEPARTMENT OF THE INTERIOR.

In re

Application of Nancy Gunter for
enrollment as a Cherokee citizen.

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SUPPLEMENTAL BRIEF FOR APPLICANT.

In this case we desire to call particular attention to the testimony of J. T. Gunter. This testimony says that Nancy Gunter removed to the Cherokee Nation with the old settlers, from Georgia, in 1835. Attorney for applicant was offering to prove how long she continued to reside in the Cherokee Nation when Mr. Hastings, attorney for the Nation, protesting, said:

"The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date was entitled to all the rights and privileges of any other Cherokee citizen and, therefore, it can not be seen why it is pertinent to go behind that date."

By attorney for applicant: "This being admitted by the representative of the Nation, I withdraw the question."

From the above there can be but one conclusion, that is, that on January 14, 1880, Nancy Gunter is shown to have been entitled to all the rights and privileges of any other Cherokee citizen. Such being the case our inquiry is then limited to the one question as to whether or not since January 14, 1880, Nancy Gunter has done some act which deprives her of her right to enrollment.

The testimony is conclusive that on this date she had valuable property in the Cherokee Nation; that she did not remove it from the Nation. The testimony on that point is as follows:

"Q. Did she remove all of her effects out of the Nation after she was admitted? - A. Not after she was admitted, no, sir. She has always had effects here since that time; her stock of cattle, branded "H. G.""

The testimony also says that continually since she has held improvements on a farm in the Nation.

We, therefore, respectfully submit that under the ruling in the Yeargains cases the applicant must be enrolled.

Respectfully submitted,

Harry G. Kimball

Wm Henry White

Attorneys for Applicant.

Cherokee D # 422.

Nancy Hunter.

Reply to Motion

to reopen case.

Before the Department of the Interior:

In the matter of the application for the enrollment of Nancy A Gunter as a citizen of the Cherokee Nation before the Commission to the Five Civilized Tribes now on appeal before the Department of the Interior.
Cherokee N~~o~~ Doubtful 422.

Reply to Motion to Reopen case.

Statement.

This office is in receipt of a copy of the motion filed by the Attorneys for Nancy Gunter for a new hearing in this case and we most respectfully protest against the granting of said motion.

Argument.

The testimony in this case shows that Nancy Gunter was admitted to citizenship in the Cherokee Nation on January 14th 1880 but it is a fact undisputed that she never at any time subsequent to her admission removed to, located or lived within the limits of the Cherokee Nation but has always at all times since her said readmission been a resident of the State of Arkansas where her husband lived and died and therefore we earnestly contend that under the Curtis Bill which provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settledin the nation in which he claims citizenship"

applies with peculiar force to this case and we believe that the Commission properly refused to enroll her as a citizen of the Cherokee Nation. This, it seems to us, is the very kind of a case Congress had in mind when it enacted the provision of the Curtis bill above quoted.

We therefore submit that this case should not be reopened but that the decision of the Commission was properly made in this case.

Respectfully,

WW Hastings

Attorney for the Cherokee Nation.

COMMISSIONERS.
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Chero. D-423.

Muskogee, Indian Territory, June 10, 19[illegible].

W. W. Hastings, Esq.,
Attorney for Cherokee Nation.
Muskogee, Indian Territory.

Sir:

There is herewith transmitted the decision of the Commission to the Five Civilized Tribes in the matter of the application of Nancy Gunter for enrollment as a citizen by blood of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary of the Interior will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Commissioner in Charge.
~~Acting Chairman.~~

Enc. R-2.

ARCHIBALD S. McKENNON. W. RAYMOND ALLEN.

LAW OFFICE OF
McKENNON & ALLEN.

WEWOKA, IND. TER., June 16, 1902.

Hon. W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:-

I am just in receipt of your briefs, on behalf of the Cherokee Nation, in the cases of Nancy Gunter, Cherokee D-422, and of Samuel Frasier, Cherokee D-419.

Yours very truly,

A S McKennon

[illegible]

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 422.

Muskogee, Indian Territory, August 16, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, of date May 20, 1902, denying the application of Nancy Gunter for the enrollment of herself as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on July 30, 1902.

Very respectfully,

Acting Chairman.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

April 22, 1903.

W. W. Hastings, Esq.,
Muscogee, Ind. Ter.

Dear Sir:

Enclosed please find copy of brief in re application of Nancy Gunter for enrollment as a citizen by blood of the Cherokee Nation. Please acknowledge receipt.

Yours truly,

Kimball & White

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

April 28, 1903.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muscogee, Ind. Ter.

Dear Sir:

We enclose herewith carbon copy of supplemental brief in re application of Nancy Gunter for enrollment as a Cherokee citizen; and, also, carbon copy of brief in re application of Clara A. Ward for enrollment as a Cherokee citizen. Please acknowledge receipt.

Yours truly,

Harry G. Kimball
Wm Henry White

Bcy

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee R-657

Tahlequah, Indian Territory, May 27, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby notified that, on May 1, 1903, the Secretary of the Interior granted a motion to reopen, for the purpose of taking further testimony, the application of Nancy Gunter, Cherokee R-657 (D-422).

The applicant and her attorneys have this day been notified that any further testimony she may have to introduce, tending to establish her right to enrollment as a citizen of the Cherokee Nation, can be presented before the Cherokee Land Office of this Commission at Tahlequah, Indian Territory, on or before June 27, 1903. Evidence is particularly required as to the residence of this applicant.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge
Cherokee Land Office.

MPM

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee R-657

Tahlequah, Indian Territory, June 3, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:-

Owing to the appropriation for the coming fiscal year not being yet available, as was expected, and the consequent lack of funds to carry on business at the land office at Tahlequah, all business at that office is suspended until July 1, 1903.

You are, therefore, hereby notified that the day set for the hearing of additional testimony in the matter of the application of Nancy Gunter for enrollment as a,citizen of the Cherokee Nation has been changed from June 27, 1903, to July 11, 1903.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.

BCJ

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-422
(R-657)

Muskogee, Indian Territory, September 9, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 5, 1903, granting the application for the enrollment of Nancy Gunter as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Enc. D-5

Chairman.

DEPARTMENT OF THE INTERIOR. FHE
WASHINGTON.

I.T.D. 8009-1903. September 22, 1903.

4. 108

Mr. W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Sir:

Replying to your communication of September 5, 1903, inclosing a reply on the part of the Cherokee Nation to a motion said to have been made by Nancy Gunter for a new hearing in the case involving her application for enrollment as a citizen of the Cherokee Nation, you are advised that your said communication and inclosures have been transmitted to the Indian Office to be considered with the case when it reaches that office.

Respectfully,

Thos Ryan
Acting Secretary.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee R-657

Muskogee, Indian Territory, March 3, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated September 5, 1904, granting the application of Nancy Gunter for the enrollment of herself as a citizen by blood of the Cherokee Nation, was reversed by the Secretary of the Interior on February 26, 1904, and the applicant's application denied.

Respectfully,

Commissioner in Charge.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

March 10, 1904.

W. W. Hastings, Esq.,
Muscogee, Ind. Ter.

Dear Sir:

Enclosed please find carbon copy of motion for review and rehearing in re application of Nancy Gunter for enrollment as a citizen of the Cherokee Nation.

Very respectfully,

Kimball & White

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE.
Attorneys at Law.
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

May 3, 1904.

W. W. Hastings, Esq.,
Tahlequah, Ind. Ter.

Dear Sir:

Enclosed please find answer to protest of the Cherokee Nation in re application of Nancy Gunter for enrollment as a citizen of the Cherokee Nation.

Yours very truly,

IN THE MATTER OF THE APPLICATION OF

Nancy Grunter

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Cher D 423

Cher D 423

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 25th, 1900.

IN THE MATTER OF THE APPLICATION OF Mattie L. Butler and children for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Mattie L. Butler.
Q What is your age? A Twenty four.
Q What is your Postoffice? A Holly, Colorado.
Q What district do you claim as your home? A This.
Q Cooweescoowee? A Yes sir.
Q Who is it you want to have put on the roll? A Myself and two children.
Q Do you claim as a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood do you claim? A My father was one sixteenth.
Q How long have you lived in the Cherokee nation? A All my life, until right here lately; my husband is in business out there, and I have been out there; I had a place here though.
Q You were born here? A Yes sir.
Q When were you married? A In 1891.
Q What is your husband's name? A Willis Butler.
Q White man, is he? A Yes sir.
Q Is he living now? A Yes sir.
Q You and he have lived together ever since your marriage?
A Yes sir.
Q You married him in 1891? A Yes sir.
Q Where have you been living since that time? A I have lived here and there; I have a farm here.
Q Did you have a farm here all of the time? A Yes sir.
Q What is your husband doing there? A In the cattle business.
Q You claim your home here? A Yes sir.
Q He lives there? A Yes sir.
Q Ever since 1891, he claims his home there; and you have continued to claim your home here? A Yes sir.
Q Are you on the roll of 1880? A No sir.
Q Are you the child of Marion Harlan? A Yes sir.
Q Who was admitted in 1880? A Yes sir.
Q Give me the names of these children? A Frank.
Q How old is Frank? A Eight.
Q Next child? A Myrtle.
Q How old is Myrtle, A She is six.
Q Both living now, are they? A Yes sir.
(1896 Roll, Page 120, #3655, Mattie Butler, Cooweescoowee D'st)
(1896 Roll, Page 120, #3656, Frank L. Butler " ")
(1896 Roll, Page 120, #3657, Myrtle Butler, Cooweescoowee D'st)
Q Is there an "L" in Frank's name? A Yes sir.
Q Have you a marriage certificate? A No here.

Eva K. Hendricks being called and sworn testifies as follows:
Q What is your full name? A Eva K. Hendricks.
Q What is your age? A Sixteen.
Q What is your Postoffice? A Vinita.
Q How long have you lived in the Cherokee nation? A All my life.
Q Is this lady here, Mrs. Butler, your sister? A Yes sir.
Q She is married, is she? A Yes sir.
Q What was her maiden name? A Harlan.
Q What is her name now? A Butler.
Q Mattie L.? A Yes sir.

Applicant recalled:
Q You were not admitted at the time your father was in 1880? You have no certificate of your admission? A No sir.
Q These children live with you and your husband, in Colorado, do they? A Yes sir; when I am there, and when I am here, they are

Witness: They are with me now.
Q Are in the Nation? A Yes sir.

The applicant applies for the enrollment of herself and two children. It is shown by the official transcript of the records of the Cherokee Commission on citizenship, that her father was admitted to citizenship, September 14th, [illegible]. The applicant is twenty four years of age, but is not enumerated in the certificate of said commission. Neither does the certificate state that the commission includes his family, but it does say that they decided "to admit and [illegible] [illegible] as Cherokees to all the rights, privileges and franchises of Cherokee citizenship by blood".

The applicant is identified on the rolls of 1896, under her maiden name, and her identity is established by her own and her father's testimony. The applicant states that she has lived in the Cherokee Nation from the time of her birth, until her marriage in 1891, since which time she has lived, partly with her husband, whose home is in Colorado; and partly in the Cherokee Nation. She claims citizenship in the Cherokee Nation, and has owned property here ever since her marriage. Her two children are identified with her on the roll of 1896; they are living at this time.

The application for the enrollment of the applicant and her two children will be placed upon a "doubtful card", for further consideration, and the final result will be made known to her at her post office address.

[illegible], being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

A R Cravens

Subscribed and sworn to before me this [illegible] day of September, 1900.

Notary Public.

Supl.-C.D.#423.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MATTIE L. BUTLER, ET AL., as citizens of the Cherokee Nation, introduced on part of applicants:

Appearances:
Applicant present in person and by Agent, J. R. Sequichie, Chelsea, I. T.;
Mr. W. W. Hastings, Cherokee Representative.

Commission: The applicant was notified by registered letter February 10, 1902, that this could would be taken up by the Commission for final consideration on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears in person with her Agent, J. R. Sequichie.

N. L. HARLIN, being duly sworn, testified as follows on part of applicants:

BY COMMISSION:

Q What is your name? A N. L. Harlin.

Q what is your age? A 56 years old.

Q Your post office address? A Vinita.

MR. SEQUICHIE:

Q Do you know the applicant in this case, Mrs. M. L. Butler, Mattie L. Butler? A Yes, sir.

Q what relation is she to you? A She is a niece.

Q Is she your sister on your brother's, girl? A Brother's child.

Q In the certificate of admission filed of her father Marion Harlin there is reference made to this girl, Mattie Butler, nee Harlin; now I wish to ask, Mr. Harlin, is there any circumstance you remember of the time of the readmission of Marion Harlin Was he readmitted to citizenship in the Cherokee Nation at the same time you were? A Yes, sir.

Q Now, what was the circumstance brought about in his case similar to yours?

Mr. Hastings: I object to that; I can't for the life of me see where it is relavent.

Q Well, now, when Marion Harlin was admitted as a citizen of the Cherokee Nation was there ever anything said about as to the citizenship of his wife?

Mr. Hastings: I object because because it is not shown that this is relavent and it is not shown as to whom the conversation was between. It is clearly hearsay.

Q were you readmitted at the same time, Mr. Harlin? A Yes, sir.

Q Did you know whether the father of the applicant, Marion Harlin, applied for the admission of his wife? A Yes, sir.

Q What was the decision in her case? A That she was a white woman and could not admit her.

Q Was there anything said about the children? A Yes, sir.

Q Mr. Harlin was readmitted? A Yes, sir.

MR. HASTINGS:

Q Where is the applicant living at the present time, where does she get her mail? A In Colorado.

MATTIE L. BUTLER, the applicant, being sworn and examined testified as follows in her own behalf:

MR. SEQUICHIE:

Q What is your name? A Mattie L. Butler.
Q What is your age? A 26.
Q What is your post office? A Holly, Colorado.
Q How long have you lived there, that is how long have you been there? A About 11 years, 12 now.
Q What is the reason of your residence; that is your residing in Colorado; is it permanent or temporary? A It is on account of my husband's health.
Q when did you return to the Cherokee Nation? A I come back here every little while.
Q when did your husband die? A On the 25th day of November, in 1900.
Q Where did he die; in Colorado? A Yes, sir.
Q Have you made any efforts; have you kept your effects in the Cherokee Nation as to hold your citizenship in the Cherokee Nation? A Yes, sir.
Q What does that property consist of? A Land and we own cattle here, hogs.
Q Give your reasons why you haven't returned since the death of your husband? A I am waiting to settle up the estate.
Q Have you been appointed his administrator of the estate or something? A Yes, sir.
How long do you have to live there under the laws of Colorado before you can settle the matter? A I' has to be a year; the estate will be settled the 14th of March.

MR. HASTINGS:

Q What does the estate consist of? A A little farm
Q You had a farm out there? A Yes, sir.
Q Any town property? A No, sir.
Q No personal property, horses or cattle? A Yes, sir; we have some horses.
Q He had been out there 11 years? A Yes, sir.
Q How long have you been married? A 11 years in April.
Q Where were you married? A Out there--in Kansas.
Q What place in Kansas were you married? A Coolage, Kansas.
Q Your husband took sick immediately afterwards and you went to Colorado? A He was a weakly man when I married him.
Q where were you born? A Here.
Q Where? A In the Territory.
Q Where in the Territory? A About 20 miles from Vinita.
Q What district? A Cooweescoowee.
Q And you went to Kansas after you were born? A Yes, sir.
Q How old were you when you went there? A About, I was over 14.
Q Over 14? A Yes, sir.
Q You have never lived here since that? A Yes, sir.
Q when? A I have come back and lived off and on.
Q well, I mean to stay any length of time? A No, I haven't since I have been married, more than to stay a month or two.
Q Where do you own any farm in the Cherokee Nation? A Nine miles north of Vinita.
Q Who did you get it from? A This man right here.
Q Your uncle? A Yes, sir.
Q Since the curtis bill passed? A No, sir, I got it in '97.
Q That is the first time you owned any? A No, sir; I had property before.
Q And you disposed of that since you went to Colordado? A No, sir.

Q Well, when did you sell it? A I didn't sell it, it was our father's estate.
Q You were an heir? A Yes, sir.
Q Well, with that exception, that is the first property you have owned in the Territory? A Yes, sir
Q How much did you pay for it? A Four hundred dollars.

MR. SEQUICHIE:

Q Is that a transaction in fact, that you baught? A Yes, sir.

Mr. Sequichie: We have a bill of sale here of that property we would like to offer as evidence

MR. HASTINGS:

Q When was this written transfer made? A It was made in June.
Q Of what year? A Well, I bought it in '97.
Q But when was this written transfer made, this written document?
A Mr. Thompson wrote it when I bought it.
Q Was it written in 1897? A Yes, sir, that I bought the land he wrote that.

Mr. Hastings: I want to call attention to the fact that there is no date on it.

Commission: There is offered in evidence a Bill of Sale showing that one M. K. Harlin in consideration of four hundred dollars paid by Mrs. Hattie Butler did seel and convey to the said grantee certain property situated nine miles northwest of the town of Vinita, Indian Territory. It is filed herewith.

Commission: It appears from the papers filed in the case of John E. Nazworthy, et al., Cherokee case No. D.451, that Marion F. Harlin was admitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship on the 14th day of September, 1880. The document is signed by Roach Young, President of the Commission, William Harnage and G. W. Mayes, Assistant Commissioners, and J. B. Mayes, Clerk.

The Agent for the applicant and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for final decison based upon the evidence now on file.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee-D- 423

940

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Mattie L. Butler for the enrollment of herself and her two minor children Frank L. and Myrtle Butler as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 25, 1900, the applicant, Mattie L. Butler, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her two minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation Further testimony was submitted in this case on February 26, 1902 at Muskogee, Indian Territory.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of the Commission that M rion Marion, the father of the applicant, Mattie L. Butler was admitted to citizenship in the Cherokee Nation ,September 14,1880. The applicant, Mattie L. Butler, was a minor at that date.

It further appears that the principal applicant was married to Willis Butler, a white man, in 1891; that he made his home in the state of Colorado from the time of said marriage up to the date of the original application herein, and that the applicant, Mattie L. Butler lived with him during that time, but made occasional visits to the Cherokee Nation. It further appears that Willis Butler, the husband of the applicant, Mattie L. Butler, died on November 25, 1900 in the state of Colarado, and that said Mattie L. Butler has been appointed administrator of his estate in said state of Colorado. It does not appear from the evidence in support of this application that the minor children, Frank L. and Myrtle Butler have ever established residence in the Cherokee Nation. Mattie L. Butler is identified on the 1896 Census Roll of the Cherokee Nation, page 120, No. 655; Frank L. Butler is identified on said roll, page 120, No. 656; Myrtle Butler is identified on said roll page, 120, No. 657.

The authority of the Commission herein is defined in Par. 9, Sec. 21, of the act of Congress, June 28, 1898(30 Stats.,495):

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Mattie L. Butler, Frank L. Butler and Myrtle Butler are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED): T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this OCT 27 1902

Cherokee R-798. R.F.B.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mattie L. Butler and her minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation.

-:-

DECISION.

The record herein shows that on September 25, 1900, Mattie L. Butler appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself and her minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Tahlequah, Indian Territory, on February 26, 1902.

The record further shows that on October 27, 1902, this Commission rendered its decision herein, denying said applicants the right to enrollment as citizens by blood of the Cherokee Nation, and that said decision was duly approved by the Department. Thereafter, (Departmental letter of March 2, 1904, I.T.D. 8016-03), upon request of the Commission, said decision was rescinded, and case remanded for readjudication "in accordance with the rulings of the Department in the Yeargain and similar cases".

The evidence in this case shows that one Marion Harlan, deceased, a Cherokee by blood, was the father of the principal applicant, Mattie L. Butler; that on September 14, 1880, by the properly constituted authorities, the said Marion Harlan, deceased, was admitted "to all the rights, privileges and franchises of Cherokee citizenship by blood"; that on the date of said admission the said principal applicant was a minor member of her father's family, and continuously resided in the Cherokee Nation with her father from the date of said admission until the year 1891; that in the year 1891 said principal applicant was married to one Willis Butler, a white man, and, on account of her husband's poor health, removed with him to the state of Colorado, where she resided until his death in 1900, since which time she has continued to reside in said state of Colorado for the purpose of winding up her deceased husband's estate, she having been appointed administratrix. It appears that during her residence in Colorado said principal applicant owned valuable property in the Cherokee Nation and always considered said Nation her home. The minor applicants herein are children of the said Mattie L. Butler, have continuously resided with their mother since birth, and together with their mother are duly identified on the Cherokee census roll of 1896.

It is, therefore, the opinion of this Commission that, following the rulings of the Department in the cases of Clement G. Clarke et al., (I.T.D. 1370-03), Joseph D. Yeargain et al., (I.T.D. 2900-03), and Martha Hill, et al., (I.T.D. 3686-03), Mattie L. Butler, Frank L. Butler and Myrtle Butler, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman

(SIGNED). T.B.Needles.
Commissioner

(SIGNED). C.R.Breckinridge.
Commissioner

Muskogee, Indian Territory,
FEB 24 1905

Cherokee D. 423.

DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

In the matter of the application of Mattie L. Butler for the enrollment of herself and her two minor children, Frank L. and Myrtle Butler as citizens by blood of the Cherokee Nation.

MOTION FOR RE-HEARING.

Comes the above named Mattie L. Butler for herself and on behalf of her minor children, Frank L. and Myrtle Butler and respectfully moves the Honorable Secretary of the Interior to re-open this case and review the same because the decision of the Commission to the Five Civilized Tribes, dated Oct. 27, 1902 is erroneous in this to-wit:

I.

That the Commission to the Five Civilized Tribes erred in holding that the provisions contained in the Act of Congress of June 28, 1898, "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship" was applicable to the claimants in this case.

II.

The Commission erred in refusing to enroll applicants herein as Cherokees by blood.

III.

The decision of the Commission to the Five Civilised Tribes in denying enrollment to applicants is contrary to law and the evidence, and their findings is not supported by the facts in this case,

WHEREFORE applicants pray that the decision of the Commission to the Five Civilised Tribes dated Oct. 27, 1902 be re-opened and reversed and a decision rendered directing the Commission to the Five Civilised Tribes to enroll applicants as citizens by blood of the Cherokee Nation.

Respectfully submitted,

Attorney for Applicants.

BRIEF ON BEHALF OF APPLICANTS.

In this case the record discloses that Mattie L. Butler, together with her father Marion Harlan was admitted to citizenship in the Cherokee Nation, Sept. 14, 1880, and that Mattie L. Butler was a minor at the time of their admission. The evidence further shows that Mattie L. Butler, together with her father and other members of the family made their home and continued to reside in the Cherokee Nation from 1880 up to the time of her marriage to her deceased husband, Willis Butler, who was a white man.

The evidence further shows that from the date of the admission of the said Mattie L. Butler nee Harlan she had been carried on the rolls of the Cherokee Nation and that her name is upon the roll of 1896 of said Nation. It further shows that she has owned and held property, farms and improvements in the Cherokee Nation since she became of age. We contend that applicant comes within the ninth paragraph of section 21 of the Act of Congress of June 28, 1898, (30 Statutes, U. S. 495), which provided that no person should be enrolled who had not heretofore removed to and in goof faith settled in the Nation in which they claim citizenship, and is not therefore barred by any statute, the applicant herein having removed and being a bona fide resident of the Cherokee Nation and owning and holding property in the said Cherokee Nation, was rightfully placed upon the roll in 1896, and is entitled to be enrolled as citizen by blood of the Cherokee Nation, there being no evidence to show that applicant in any was whatever abjured her citixenship, but on the contrary applicant has placed herself with the spirit and the letter of the Act of Congress of June 28, 1898.

There is no contention but that applicant and her children are citizens by blood of the Cherokee Nation, her father and brother being duly enrolled as such by the Commission to the Five Civilized Tribes. There is no contention but that she was regularly admitted to citizenship and that she together with her parents lived in the Indian Territory from the time of their admission until the date of her marriage. We contend that the opinion of the Attorney General of July 8, 1903 as well as by the Department in the case of Ora M. Bond nee Camp of March 25, 1903 clearly show that the decision of the Commission to the Five Civilized Tribes is erroneous and should be reversed because as held by the opinion of the Attorney General the Act of June 28, 1898, quoted in this brief was not intended to and did not apply to any one who had ever been a bona fide resident of the Cherokee Nation, but who were absent on business or temporary purposes without intending to abandon their citizenship in the Cherokee Nation. In support of our contention that applicants are entitled to enrollment in the Cherokee Nation we would respectfully call attention to the opinion of the Attorney General rendered March 16, 1903 in the case of Joe D. Yeargin et al vs the Cherokee Nation. The change of location must be made with the bona fide intent of taking citizenship of a new state and the party making the change must do so with intent of abandoning the former residence for a mere business from the fixed home, however long continued can not work the change.

Mitchell vs U. S. 88, U. S. 350.

Law edition, book 22, 533.

Railroad vs Ohle 177, U. S. 123.

Hall vs Schoenecke 31, S. W. 97.

Storey on Complicated Law, section 44.

The Cherokee Constitution, one of its citizens in order to forfeit its rights in the Cherokee Nation had to remove beyond the limits of the Cherokee Nation in order to forfeit same. The Cherokee as required to work a forfeiture absolutely expatriation and espatriation business out of ones native country should naturalize in the country adopted as ones future home.

Ninth opinion of the Attorney General, 359.

Webster on Citizenship, 48.

Upon the question of how Indians can forfiet their rights when ones acquired, I call attention in the case of Elks vs Wilkins, 112, U. S. 94. Applicants contend that there is nothing in the record to warrant the finding of the Commission that they are not entitled from the evidence and the law to be enrolled as citizens by blood of the Cherokee, and they respectfully ask that the decision heretofore rendered be reversed and a decision rendered directing the Commission to the Five Civilized Tribes to enroll them as citizens by blood of the Cherokee Nation.

Respectfully submitted,

Attorney for Applicants.

I, W. W. Hastings, Attorney for the Cherokee Nation in making the roll of Cherokees by blood, hereby accept service of a copy of the petition for re-hearing and brief in support of same in Cherokee D. 425, Hattie I. Butler et al.

This _____ day of October, 1903.

Attorney for Cherokee Nation in
making the Cherokee Rolls.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D - 423.

Muskogee, Indian Territory, October 28, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 27, 1902, rejecting the application of Mattie L. Butler for the enrollment of herself and her two minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation.

The decision with the record of the proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge

Acting Chairman.
Commissioner in Charge.

Enclosure C. No. 201

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:

Cherokee D-423

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 29, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:-

You are hereby advised that the Commission's decision, dated October 27, 1902, rejecting the application of Mattie L. Butler for the enrollment of herself and two minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior January 19, 1903.

Respectfully,

Acting Chairman.

Dbw

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee 10866,

Muskogee, Indian Territory, June 20, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated February 24, 1905, granting the application for the enrollment of Mattie L. Butler, et al., as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on June 12, 1905.

Respectfully,

Chairman.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee R-728.

Muskogee, Indian Territory, February 24, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, granting the application for the enrollment of Mattie L. Butler and her minor children, Frank L. and Myrtle Butler, as citizens by blood of the Cherokee Nation.

You are advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Tams Bixby
Chairman.

Encl. L-35.

[illegible]

Mattie L. Butler et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony – September 25. 190
B. Memo of application – " 25. 190
C Notice of final consideration
D Receipt for testimony

Bill of sales.

F. Supplemental testimony and order
Closing testimony, Feb. 26, 1902

[illegible]

Division – R

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 10 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 25th, 1900.

IN THE MATTER OF THE APPLICATION OF NORA MOREHOUSE FOR THE ENROLLMENT OF HERSELF AND TWO CHILDREN AS CHEROKEE CITIZENS.

The said Nora Morehouse, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Nora Morehouse.

Q What is your age? A Twenty-five.

Q What is your post office address? A Albia, Indian Territory.

Q For whom do you apply for enrollment. A Myself and two children.

Q Are you a recognized citizen of the Cherokee Nation by blood? A Yes, sir.

Q What degree of blood? A One-sixteenth.

Q What is the name of your father? A Hugh Carrell. He has been dead since 1883.

Q Is your mother living? A No, sir; she died about the same time father died.

Q What is the name of your husband? A Lewis B. Morehouse.

Q When did you marry him? A In 1893.

Q Is he living? A Yes, sir.

Q Have you a certificate of marriage? A No, sir.

Q What are the names of your children? A Helen Morehouse, six years old; and Clarence Augustus Morehouse, and I have a certificate of his birth.

THE COMMISSIONER. The applicant presents a certificate of birth as to her youngest child.

Q What was your name before you married? A Carrell.

Q That was your name in 1880? A Yes, sir.

Q Are you living with your husband at this time? A Yes, sir. I am not on the 1880 Roll. My father's people was all on but he was readmitted in 1881; and when they died in 1883, my grandfather took us and kept us until [illegible] we were married.

THE COMMISSIONER: You present a certificate of admission dated Tahlequah, December 6th, 1881, signed by John Severs, Speaker of the Council, J. B. Mayes, Clerk of the Council, Roach Young, President of the Senate; concurred in by the Senate December 6th, 1881. This certificate purports to be a certified copy of the act, and the copy is signed by William P. Boudinot Executive Secretary, and under seal. In the certificate presented appears the name of Norea Carrell. Are you the identical Nora Carrell mentioned in this certificate? A Yes, sir; I suppose so.

MR. HASTINGS: (Representative of the Cherokee Nation) This record I have shows she was admitted in 1881 also.

Q Well, when were you married? A The 20th of August, 1893.

Q To Lewis B. Morehouse? A Yes, sir.

Q Were you married according to the laws of the Cherokee Nation? A No, sir.

1896 Roll, page 509, No. 2223, Nora Morehouse, Delaware District.

1896 Roll, page 509, No. 2224, Helen Morehouse, Delaware District.

Q How long have you been living in the Cherokee Nation? A Three years since I have been married.

Q Where did you live before that? A Eureka Springs.

Q Did you live in Eureka Springs until three years ago always? A No, sir; I lived here with my father and mother, and after they died my grandfather took us there until we was married, and then we came back after we was married.

Q When did he take you there, in 1883? A In 1883.

Q When you were children? A Yes, sir; we were all three minors.

Q You staid there until 1897? A Yes, sir.

Q Then you married there, and came here into the Cherokee Nation? A Yes, sir.

Q And you have been living here ever since A No, sir; we have not been here but three years.

Q Well, for the last three years? A Yes, sir.

Q You were living here in the year 1898, were you? A Yes, sir.

(Examination by Mr. Hastings, representative of Cherokee Nation)

Q You say you were married in 1893? A Yes, sir.

Q You lived in Eureka Springs four years after you were married? A Yes, sir.

Q Your first child was born there? A All three of them were

Q All three of the children were born there? A Yes, sir.

Q What did your husband do there? A He just worked at most anything. He came here twice right after we was married and tried to rent a place, and he couldn't get anything only for cash rent, and he wasn't able to do it.

Q Where does your sister live, who was enrolled with you? A One in north Missouri and one in California.

Q Does your grandfather live in Eureka Springs? A He is dead but my grandmother is there yet.

Q What time in 1897 did you move here? A In January, the first day of January.

Q Have you got a farm here now? A Yes, sir; we are on a place now. My sister enrolled all right at Fairland, and she has been away all the time that I have.

BY THE COMMISSIONER: As I understand this case you were admitted in 1881 as a child A Yes, sir.

Q And your grandfather took you to Eureka Springs, to Arkansas,--the State of Arkansas? A Yes, sir.

Q And you lived there until you were married? A Yes, sir.

Q Q Which was in 1893? A Yes, sir.

Q And then you remained in Arkansas until 1897? A Yes, sir

Q And then you removed here and have been residing here ever since? A Yes, sir; as soon as we could get a place here. And then I come here to enroll in 1896; and they said I would have to be readmitted, and I took this certificate along, and they said I didn't have to be readmitted any more then because we were minors, they said, when we were taken out.

MR. HASTINGS: (Cherokee representative) The only question is the question of a marriage and a residence of four years subsequent to her marriage. She could not claim minority to that.

THE COMMISSIONER: The name of Nora Morehouse is found upon the census roll of 1896, and she presents a certificate of admission more particularly described in the testimony, certifying that she was admitted as Nora Carroll in the year 1881. Since that time, to-wit: on the 20th day of August, 1893, she married one Lewis B. Morehouse, a citizen of the United States, in the State of Arkansas; and she resided there with her husband from that time until the year 1897, and then removed to the Cherokee Nation, and has been here ever since.

An act of the Cherokee Council, approved December 4th, 1894, provides: "That all persons who have been and may hereafter be readmitted to citizenship in the Cherokee Nation, are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of the act, or from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission, provided that nothing in this act shall bar minors and orphans."

It appears from the testimony that the applicant was taken out of the Cherokee Nation by her relatives while an orphan, but she remained in the State of Arkansas for four years after she was married; consequently, final judgment as to the application of Nora Morehouse for the enrollment of herself and two children, will be suspended, and their names will be placed upon a doubtful card. The name of her child Helen is found upon the roll of 1896, and she presents satisfactory proof as to her youngest child, Clarence A.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 10th day of October A. D. 1900.

Commissioner.

D. 424.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of Nora Morehouse for the enrollment of herself and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 10th that her case would be taken up for final consideration by the Commission on the 26th day of February, 1902, and she this day appears before the Commission by her husband, Lewis B. Morehouse.

Cherokee Nation represented by W. W. Hastings.

The said Lewis B. Morehouse, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Lewis B. Morehouse.
Q How old are you? A 33.
Q What is your postoffice address? A Albia, I. T.
Q Are you the husband of Nora Morehouse? A Yes, sir.
Q And the father of her children? A Yes, sir.
Q Is she an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Is there any statement you desire to make relative to the enrollment of your wife and children? A No, I don't know that there is unless it is——there isn't any question about her blood is there, Cherokee blood? I don't know of any proof to bring up, only she was taken away from her when she was a child, a minor, and kept out until after she was of age by her grandparents, and didn't know that it was necessary to be here. As soon as she found out she come here and has been living here since. She appeared before the Council in 1896; they told her if she would come here and live after that she would be entitled to all the rights and privileges.
Q Do you, in behalf of your wife and children, submit this case to the Commission for final consideration? A Yes, sir.

The applicant by her husband, Lewis B. Morehouse, and the representatives of the Cherokee Nation present, submit this case to the Commission, and the same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 27th day of February, 1902.

Commissioner.

Cherokee-D-424

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

3773

In the matter of the application of Nora Morehouse for the enrollment of herself and her three minor children, Helen, Clarence A. and Katie May Morehouse as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 25, 1900, the applicant, Nora Morehouse, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her two minor children, Helen and Clarence A. Morehouse as citizens by blood of the Cherokee Nation. Further testimony was submitted in this case on February 26, 1902, at Muskogee, Indian Territory.

On March 12, 1902, there was filed with the Commission a birth affidavit duly executed on February 17, 1902 from which it appears that Katie May Morehouse was born on February 20, 1901; that she is the child of L. B. and Nora Morehouse, and that she was living at the date of the execution of the affidavit.

It appears from the evidence in support of this application and the printed acts of the Cherokee National Council for 1881, page 13, that Nora Morehouse was admitted to citizenship in the Cherokee Nation on December 7, 1881 by an act of the National Council. By the same act Hugh Carrol and his wife, Lucy, the parents of Nora Morehouse, were admitted to citizenship in the Cherokee Nation. It further appears that the parents of the applicant, Nora Morehouse, died about the year 1885 and she was then taken to the state of Arkansas by her grandfather. It further appears that the applicant, Nora Morehouse with her minor children who were then born, returned to and settled in the Cherokee Nation in the year 1897. Nora Morehouse and her minor child, Helen, are identified on the 1896 Census Roll of the Cherokee Nation. The minor child, Clarence A., is too young to be upon that roll, but he is duly identified by a birth affidavit on file with the papers in the case.

The authority of the Commission herein is defined in Par.1, Sec. 21, of the act of Congress, June 28, 1898(30 Stats., 495).

It is therefore the opinion of this Commission that Nora Morehouse, Helen Morehouse, Clarence A. Morehouse and Katie May Morehouse are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this DEC - 1 1902

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. December 15th 1902.

In the matter of the application of Nora Morehouse et al for enrollment as citizens of the Cherokee Nation by blood.

Cherokee D 424.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission in this case and asks that the same be forwarded to the Honorable Secretary of the Interior for Review.

The testimony in this case shows that the Principal applicant Nora Morehouse was admitted to citizenship in the Cherokee Nation when she was a miner in 1881, that she afterwards removed to the state of Arkansas and made her home with her grand parents with whom she lived until her marriage in 1893 when she lived separate and apart with her husband in Arkansas until January 1897.. The Cherokee National Council passed an act approved December 4th 1894 providing:

> " That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act or from the date of readmission of persons hereafter readmitted or no rights whatever shall accrue to such persons by reason of such readmission provided nothin in this act shall bar minors and orphans."

The applicant Nora Morehouse was married in 1893 hence she was of age on December 4th 1894 when the above act was approved, and according to her own testimony she was born in 1875 and was nineteen years of age on December 4th 1894 and by years as well as by marriage she was of lawful age hence we argue that this act of the National Council refers especially to this kind of a case.

The act of June 10th 1896 provides that the United States Commission shall respect all laws of thexxxxx several tribes or nations no inconsistent with the laws of the United States etc. Now if it is incumbent xxx upon the Commission to respect the Cherokee law in making the roll of citizens of the Cherokee Nation we do not see how under this act of December 4th 1894 the applicants are entitled to be enrolled as citizens of the

Cherokee Nation and the Commissioner in the field before whom this case was heard refers to this act of the National Council and especially refers to her continuous residence in Arkansas and we are at a loss to understand how these applicants are entitled to enrollment if any respect is shown to this act of the National Council dated December 4th 1894.

Again the Cherokee Constitution Article I Section 2 provides: "Whenever any citizen shall remove out of the limits of the Cherokee Nation with his effects and becomes a citizen of any other government" etc he forfeits his right to citizenship in the Cherokee Nation. Now this applicant removed out of the limits of the Cherokee Nation, it is true while she was a minor, but she became of age in 1893, married her husband in Arkansas whose residence and citizenship was there and her residence and citizenship immediately became that of her husband if not before.. She continued to reside there for four years after she reached her majority and under the Cherokee Constitution above referred to aside from the act of December 4th 1894 she would not be entitled to enrollment as a citizen of the Cherokee Nation.

No reference is made to this act of the National Council by the Commission in its decision and the Cherokee Nation most urgently insists that these applicants are not entitled to be enrolled as citizens of the Cherokee Nation.

Respectfully submitted,

W. W. Hastings JCS

Attorney for the Cherokee Nation.

Attest:

J C Starr

Stenographer for the Cherokee Nation.

appeal on
Residence
She went to Ark
in 1883 when a
minor – She
become of age
in 1893
& returned to the
Cherokee nation
in 1897 ——

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D 424.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 3, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, granting the application of Nora Morehouse for the enrollment of herself and her three minor children, Helen, Clarence A. and Katie May Morehouse, as citizens by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 81.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-484.

Muskogee, Indian Territory, December 20, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 1, 1902, granting the application of Nora Morehouse for the enrollment of herself and her three minor children, Helen, Clarence A. and Katie May Morehouse, as citizens by blood of the Cherokee Nation, a copy of which decision was furnished you on December 3, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

TB Needles

Commissioner in Charge.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
—
ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-424

Muskogee, Indian Territory, February 26, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 1, 1902, granting the application of Nora Morehouse for the enrollment of herself and her three minor children, Helen, Clarence A. and Katie May Morehouse, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on February 10, 1903.

Respectfully,

Chairman.

N THE MATTER OF THE APPLICATION OF

Nora Morehouse et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 25, 1900
B. Memo of application. " 25. 1900
C - Birth affidavit - Clarence A. Morehouse
D Notice of final consideration 2/26/02
E Certf of admission

F Order closing testimony, Feb. 26, 1902

[illegible] and [illegible]ed.
[illegible]

Decision - E

See letter jacket No R 630

Cher D 425

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D425

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., SEPTEMBER 24th, 1900.

IN THE MATTER OF THE APPLICATION OF Andrew O. Harlan, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Andrew O. Harlan.
Q What is your age? A Thirty two.
Q What is your postoffice? A McAlester, I. T.
Q What district do you claim as your home? A [illegible].
Q Cherokee? A Yes sir.
Q Where is McAlester? A Choctaw Nation.
Q For whom do you apply for enrollment? A Myself, two children and my wife.
Q Are you a Cherokee by blood? A Yes sir.
Q Is your wife a Cherokee by blood? A No sir.
Q How long have you lived in the Cherokee Nation?
A Born in the Cherokee Nation. All my life.
Q Born here; all your life? A Yes sir.
Q Are you on the roll of 1880? A I do not think I am.
Q Have you been admitted by the Cherokee Council? A Yes sir.
Q You applied to the Dawes Commission? A Yes sir.
Q You were admitted by the Dawes Commission in 1896? A Yes sir.
Q Where have you lived since then? A McAlester part of the time, and part of the time.
Q Where have you lived most of the time? A McAlester.
Q Where are you living now? A McAlester.
Q What is your wife's name? A Dora Pearl.
Q How old is she? A She is twenty three years old.
Q When did you marry her? A Eight years ago.
Q Have you a certificate of marriage? A Yes sir.
The applicant presents a license, issued by the Clerk of the United States Court, Second Judicial Division, Indian Territory, under date of March 15th, 1891, authorizing marriage between himself and Miss [illegible] Pearl Richards, and the certificate shows that they were married on the same date by the Reverend George [illegible]. Hill. This document is filed herewith.
Q Your wife is not with you in the application you made to the Dawes Commission? A No sir.
Q Now give me the names of your children please.
A Myrtle Belle.
Q How old is that child? A Six years old.
Q Next child please? A Nina Bula.
Q How old is she? A Three years old.
Q Both living now, are they? A Yes sir.
Q What are you doing in McAlester? A Working in the coal mines.
Q Digging coal? A Track laying; side work.
Q That is your home there, are you? A No sir; I went down there because work was poor here.
Q Do you vote when they have elections down there? A No sir
Q Why do you not vote? A I did not think I had a right to vote.

The applicant applies for the enrollment of himself, his wife and two children. He is shown to have been admitted by the Dawes Commission in 1896; his marriage license and certificate, filed herewith, show that he was married to his wife eight years ago, and they have lived together as husband and wife ever since; his child, then living, Myrtle Belle, was also admitted by the Dawes Commission. The applicant makes his home at McAlester, in the Indian Territory, and has done so, as shown by the testimony, for some years past. For the further consideration of the rights that exist in the statement of his case, these applications will all now be placed upon a "Doubtful Card", including the application for the youngest child, Nina Bula, when the Commission shall be applied with a proper certificate of the birth of that child. The later child is said to have been born since the admission of the applicant by the Dawes Commission.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Cravens

Subscribed and sworn to before me this 26th day of September, 1900.

COMMISSIONER.

D495

FILED
MAR 5 1902
ACTING CHAIRMAN

D. 425.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of Andrew O. Harlan for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears in person and by his attorney, J. R. Sequitchie.

Cherokee Nation represented by W. W. Hastings.

The said Andrew O. Harlan, being first duly sworn, testified as follows:

MR.SEQUITCHIE: What is your name? A Andrew O. Harlan.
Q What is your age? A 35 years old.
Q What is your postoffice? A McAlester, Choctaw Nation.
Q What is your citizenship? A Cherokee.
Q Cherokee by blood? A Yes, sir.
Q Have you lived in the Cherokee Nation? A Yes, sir.
Q How long? A Well, principally all the time out and in.
Q What is your occupation at the present time? A Working in coal mines.
Q How long have you been working at the coal mines? A Past eight years.
Q Where? A McAlester.
Q What nation is that? A Choctaw Nation.
Q Is that in the Indian Territory? A Yes, sir.
Q Did you vote? A No, sir.
Q Are you on the 1880 roll? A No, sir, don't think I am.
Q How did you become a citizen of the Cherokee Nation by blood? A By the Commission.
Q What year, in 1896? A I don't just remember the year, the year of 1896 I think.
Q Have you got any personal effects in the Cherokee Nation? A Yes, sir, I have got a farm place.
MR.HASTINGS: When did you get that farm? A Two years ago.
Q Where is it? A Nine miles southwest of Vinita.
Q Who did you purchase it of? A Wess Harris.
Q What did you give him for that? A I give four hundred dollars for one place.
Q You got a bill of sale of it? A Yes, sir.
Q With you? A No, sir. Another place I give him five years' rent off the place to pay for it, too.
Q Leased it? A Leased it.
Q In violation of the law? A He bought the place from me for five years' rent of the place.
Q You say you leased it in violation of law. You lived in the Choctaw Nation since you were admitted in 1896? A Yes, sir.
COMMISSION: The applicant and his agent and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Groninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Groninger

Subscribed and sworn to before me this 27th day of February, 1903.

Commissioner.

Cher
Supp'l to D 425

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 20, 1902.

In the matter of the application of ANDREW O. HARLAN, for the enrollment of himself, and his children, MYRTLE B. and NINA E. HARLAN, as citizens by blood, and his wife CORA P. HARLAN, as a citizen by intermarriage, of the Cherokee Nation:

ANDREW O. HARLAN, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Andrew O. Harlan.
Q What is your age at this time ? A I am thirty four.
Q What is your post office address ? A Adair.
Q You are a citizen by blood of the Cherokee Nation ? A Yes sir.
Q Are you the same Andrew O. Harlan that applied to the Commission in September, 1900, for enrollment as a citizen by blood of the Cherokee Nation ? A Yes sir.
Q What is your wife's name ? A Cora P. Harlan.
Q What is her age ? A Twenty eight years old.
Q She is an applicant for enrollment as an intermarried citizen of the Cherokee Nation is she ? A Yes sir.
Q When were you married to Cora P. Harlan ? A 12 years ago.
Q Were you ever married before you were married to her ?
A No sir.
Q Was she ever married before she married you ? A No sir.
Q Have you and she lived together as husband and wife ever since your marriage up to the present time ? A Yes sir.
Q Never been separated ? A No sir.
Q Were you and she living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q You were admitted by the Dawes Commission in 1896 were you not ?
A I think that was the year, yes sir.
Q Your wife wasn't included in that application with you ?
A No sir; I don't recollect whether she was or not.
Q Have you lived in the Indian Territory ever since 1896 up to the present time ? A Yes sir.
Q Never have lived outside the Indian Territory since 1896 ?
A No sir.
Q Has your wife lived with you during that time ? A Yes sir.
Q And have these two children, Myrtle B. and Nina E., lived with you all the time ? A Yes sir.
Q Are they both living now ? A Yes sir.
Q They are both your children by your wife Cora P ?
A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 24, 1902.

B C Jones
Notary Public.

Cherokee D-428.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Andrew O. Harlan and his two minor children, Myrtle B., and Nina E. Harlan, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Cora P. Harlan, as a citizen by intermarriage of the Cherokee Nation.

|| || || || || || || ||

DECISION.

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The record in this case shows that on September 25,1900, Andrew O. Harlan appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself and his two minor children, Myrtle B., and Nina E. Harlan, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Cora P. Harlan, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 26, and October 20, 1902.

It appears from the records in possession of this Commission that Andrew O. Harlan and his minor child, Myrtle E. Harlan, were admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, on November 24, 1896, in accordance with the provisions of the Act of Congress approved June 10,1896,(29 Stats., 321), and that no appeal was taken from said decision.

The evidence shows that Andrew O. Harlan was lawfully married to Pearl Richards on March 13, 1891. The Cherokee Supreme Court, in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson, held that a white woman married to a Cherokee Indian at the time of his admission to citizenship, acquires thereby the rights of Cherokee citizenship.

The evidence further shows that the minor child, Nina E. Harlan, is the child of Andrew O. and Cora P. Harlan, and that she was born on June 15, 1897, as appears from the birth affidavit made a part of the record herein.

The evidence further shows that the said Andrew O. Harlan and his wife, Cora P. Harlan, have lived together in Indian Territory continuously since his admission to citizenship in the Cherokee Nation, up to and including September 1, 1902. The residence of the minor children is shown to be the same as that of the parents.

It is, therefore, the opinion of this Commission that the said Andrew O. Harlan, Myrtle B. Harlan and Nina E. Harlan should be enrolled as citizens by blood of the Cherokee Nation, and that Cora P. Harlan should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28,1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

(SIGNED) T.B. Needles
Commissioner.

(SIGNED) C.R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 15 1903

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-425.

Muskogee, Indian Territory, January 15, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 15, 1903, granting the application of Andrew O. Harlan for the enrollment of himself and his two minor children Myrtle B. and Nina E. Harlan, as citizens by blood, and for the enrollment of his wife, Cora P. Harlan, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

~~Acting Chairman~~.
Commissioner in Charge,

Enc. H-8.

IN THE MATTER OF THE APPLICATION OF

Andrew G. Harlan et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Or[illegible]nal testimony, Sept. 25, 1900

B. Notice of application

C. Marriage License & Certificate

D. Affidavit of Birth.

E. Notice of final consideration 2/26/02

F. Receipt for testimony.

E. Supplemental testimony and order Closing testimony Feb. 26, 1902

[illegible]

Decision - E & R

Cher D 426

Cher D 426

File with case C.D.#426.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 25, 1900.

In the matter of the application of John W. Martin for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A John W. Martin.
Q What is your age? A About 51.
Q What is your post office address? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes, sir.
Q What degree of blood do you claim? A I am about half.
Q For whom do you apply for enrollment? A Myself wife and children.
Q What is the name of your wife? A Nannie Martin.
Q Is she a Cherokee citizen by blood? A No, sir
Q When did you marry her? A Here is the certificate; I can't remember.)Produced papers.)
Com'r Needles: The applicant presents certificate of marriage certifying that he was married to one Nannie Brackley on February 14, 1884.
Q Your wife is a white person? A Yes, sir.
Q What is the name of your father? A Gabe Martin.
Q Is he living? A No, sir.
Q What is the name of your mother? A Eliza Martin.
Q Is she living? A No, sir.
Q Your wife's mother and father are non-citizens? A Yes, sir.
Note: Applicant hands Commissioner list of his children and Commissioner reads as follows:
Mamie, fifteen years old; Harry, 9 years old; Walter, 6 years old; Gracie, 2 years old.
Applicant presents certificate of birth as to his youngest child, Gracie.
Q Have these children got any middle names? A No, sir.
Q Are they all alive and living with you? A Yes, sir.
Q Is your name on the roll of 1880? A I think not.
Q Why? A I was in Muskogee, I didn't get back soon enough I think, I come to this country in 1881.
Q Have you got a certificate of admission? A No, sir.
1880 roll examined for applicant and name not found.
1896 roll page 509 #2217 John W. Martin Delaware district.
Q Your father and mother not on the 1880 roll? A No, sir.
1894 roll page 434 #1984 John W. Martin, Delaware;
1894 roll page 434 #1987 Mamie Martin, Delaware;
1894 roll page 434 #1988 Harry Martin, "
1894 roll page434 #1989 Walter Martin "
1896 roll for wife, page 581 #340 Nannie Martin Delaware;
1896 roll page 509 #2220 Maimy Martin "
1896 roll page 509 #2221 Harry Martin "
1896 roll page 509 #2222 Walter Martin, "

L. W. BUFFINGTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A L. W. Buffington.
Q What is your age? A Forty-two.
Q What district do you live in? A Delware.

Q Do you know John W. Martin? A Yes, sir.
Q Do you know anything about him being a Cherokee citizen?
A Yes, sir, I know he isa Cherokee by blood.
Q
Q Did you know his father? A No, sir.
Q Did you know his mother? A No, sir.
Q What reason have you to believe he is a Cherokee by blood?
A I knew his uncle, a brother of his father.

BY CHEROKEE REP'VE W. W. HASTINGS:

Q How long have you known this party? A Ever since 1882.
Q Did you know him before that time? A No, sir.
Q You know where he came from when he came here? A No, sir.
Q You know where he was born and raised? A No, sir.
Q You know why he wasn't on the roll of 1880? A No, sir.

APPLICANT RE-CALLED, and examined by Cher) Rep 've Hastings

Q Where were you in 1880 A I think I was in Vinita. The latter part of 1880.
Q How long did you live in Texas? A I went to Texas when I was about 17 or 18 years old, about '66 or 7 and I come back in '80. and I was at Muskogee the fore part of 1880 and I think I got to Vinita in the latter part of 1880.
Q You are 51 years old now? A I was either born in 48 or '49.
Q You were 32 years old when you returned? A About that.
Q You never was re-admitted to citizenship? A No, sir, I never give up my citizenship; I drove a team to Texas for a man and when I got there I said there.
Q You staid there about 14 years? A About 13 years.
Q Was your first wife a Cherokee? A No, sir.

Com'r Needles: The name of John W. Martin appears upon the census roll of 1896; he presents certified proof of his marriage to one Nannie Brackley, a write person, in the year 1884; the names of his children, Mamie, Harry and Walter appear upon the census roll of 1896, as well aw the pay roll of 1894; the name of John W. also appears upon the pay roll of 1894; his name does not appear upon the authenticated rooll of 1880; he presents no certificate of re-admission, and testified that he went to Texas and remained there some 13 years, coming back to the Territory in the year 1880 or 1881; final judgment as to the enrollment of said John W. Martin, and his wife Nanne and their c hildren as enumerated in the testimony will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this 25 day of September, 1900.

(Signed) T. B. Needles,
Commissioner.

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SUPPLEMENTAL TESTIMONY.

Cher. D.#418.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d, 1901.

In the matter of the enrollment of John W. Martin, et al., as citizens of the Cherokee Nation, the following supplemental testimony is offered on the part of the applicants:

N
JAMES M. BELL, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name? A James M. Bell.

Q How old are you? A 69 years old.

Q What is your post office? A Needmore.

Q In what district do you live? A Delaware.

Q You are here I believe to give testimony in the case of John W. Martin and his family? A Yes, sir, and more particular in his behalf, I know but little about his family.

Q In this cases his family appear to depend upon his status?

A Yes, sir; it is in his behalf.

Q How long have you lived in the Cherokee Nation? A Since '39 with a very little exception, I went to school out of the country.

Q You know John W. Martin, do you? A Yes, sir.

Q How long have you known him? A Since a child three or four years old perhaps.

Q Do you know his wife, Nancy? A No, sir, I don't know her.

Q You are not acquainted with her at this time? A No, sir; that wife is not his present wife; I don't think I know his present wife.

Q What is the name of his present wife? A I don't know what her given name is, but she is a white woman.

Q You do know his present wife? A Yes, sir.

Q How long has he been married to his present wife? A I think about 16 or 18 years, I am not positive as to the time, about as much as that.

Q What was the name of his present wife when he married her?

A I don't know that she was a widow woman.

Q Well, that corresponds to his testimony; that his present wife is a white woman, that he has been married to her since '84, that would be some 16 years? A Yes, sir.

Q How many times has John W. Martin been married? A Twice to my knowledge.

Q Was his first wife dead when he married this woman? A Yes, sir.

Q You say his present wife was a widow? A Yes, sir.

Q How many times has she been married? A I don't know, sir, she has two children.

Q By a former husband? A Yes, sir.

Q Was that husband dead when she married Martin? A I think so, yes, sir; that is my understanding that her husband was dead.

Q Is John W. Martin's father living? A No, sir.

Q Has he been dead many years? A He has been dead since '52 I think.

Q Is his mother living? A No, sir

Q Has she been dead many years? A She died about the same time.

Q Do you know where he was born? A He was born here in Tahlequah district, or Flint, and I don't know which, his grandmother lived right where the High School, Colored High School.

Q Have you always considered him a native Cherokee? A Yes, sir.

Q Has he been recognized as a Cherokee by blood always? A Yes, sir.

Q He went to Texas at one time did he not? A' Yes, sir.

Q Do you know when that was? A He was about, he was hardly grown when he went there, 14 years old.

Q Do you know where he went? A I don't know about what point in Texas he did go.

Q Just only that he went to Texas? A Yes, sir.

Q You meant to say that you only knew he did go to Texas?

A Yes, sir; he went to Texas.

Q Do you know how long he stayed there? A He stayed there until after he was grown.

Q About how many years? A He learned his trade there, he is a Saddler, Harness man.

Q Did you know for what purpose he went to Texas? A He told me the purpose he went there for was to drive a wagon.

Q Just taking a wagon down there? A Just for another man, load of apples I believe, hauled from this Country to that.

Q That is the only purpose you know of? A Yes, sir.

Q And then stayed as you say for sometime after he had reached his majority? A I don't know that he had reached his majority or not; until after he had learned his trade.

Q The point is whether he had reached hs majority when he came back? A I don't know that time that he was of age or hardly of age.

Q When did you see him soon after his return? A No, sir, I saw him after he come to this point here.

Q Do you mean Vinita? A Yes, sir.

Q When was that? A I think that was in '70; perhaps not as far back as that, perhaps '80 or '81.

Q Have you any knowledge of how long he was here when you saw him at that tme? A No, sir.

Q Can you explain why he is not on the roll of 1880?

A His absence from here was the only reason.

Q Only reason you know of? A Yes, sir; but I think he was in the Territory, he was in the Creek Nation, I think at that time, he stopped at Muskogee.

Q What reasons have you to know that? A I had that from himself.

Q What did he tell you? A Told me he stopped in Muskogee and worked at his trade there.

Q Did he tell you how long he worked there? A No, sir, but he must have been there quite a while.

Q What means have you of knowing that? A None only.

Q That is just a supposition isn't it? A That he was there?

Q Yes. A I got that from himself.

Q What did he tell you? A He told me about, all I recollect about that is that he told me he stopped in Muskogee and worked his trade.

Q He didn't tell you how long? A No, sir.

Q Nor when he came? A No, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q You stated that John W. Martin was married twice to your knowledge; where was he married the first time? A I don't know that, he came here with a wife that died here.

Q You don't know how long he had been married? A Previous to that, no, sir; his oldest son, Charley, I suppose is 28 or 30 years old, I don't know how old he is.

Q His oldest son? A Is between 25 or 30 years old.

BY COMMISSIONER BRECKINRIDGE:

Q Is he here? A No, sir, he is in Town though.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 27th day of May, 1901.

Z(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly copied the testimony on file in the case of John W. Martin, and that the above and foregoing is a true and complete copy of the same.

J O Rosson

Subscribed and sworn to before me this March 4, 1902.

Commissioner.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP [illegible] 1900

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 25th, 1900.

IN THE MATTER OF THE APPLICATION OF Charles N. Martin and wife for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Charles N. Martin.
Q What is your age? A Twenty four.
Q What is your Postoffice? A Vinita, I. T.
Q What district do you live in? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and wife.
Q Are you a Cherokee by blood? A Yes sir.
Q What proportion do you claim of Cherokee blood?
A About one eight, I suppose.
Q Is your wife a Cherokee? A Yes sir; about the same.
Q How long have you lived in the Cherokee Nation? A Since 1881.
Q Were you admitted in 1881? A No sir.
Q How did you get to be a Cherokee citizen in 1881?
A My rights were never disputed.
Q Where were you born? A Born in Texas.
Q You lived there until 1881, did you? A Until 1881; we came here; came from Texas here in 1881; came from Texas to Muskogee, and then to Vinita.
Q When did you come to Vinita? A In 1881.
Q That is your first coming to the Cherokee Nation as well as you know? A Yes sir.
Q You are not admitted by act of the Cherokee Commission or Council? A No sir; not that I know of.
Q You never applied to the Dawes Commission for enrollment?
A No sir.
Q What is your father's name? A J. W. Martin.
Q Give me the name of your mother? A Laura E. Martin.
Q Is she living or dead? A She is dead.
Q How long has she been dead? A I can not say for sure; something like thirteen or fourteen years; I am not positive.
Q Have you lived here ever since 1881? A Yes sir.
Q Now give me your wifes name please? A Olive Martin.
Q How old is she? A Twenty four her next birth day.
Q When did you marry her? A The fourteenth of March, 19 00.
Q What was her maiden name? A Olive I. Allen.
Q What is her father's name? A C. E. Allen.
Q Cherokee or white man? A Cherokee.
Q Dead or living? A He is living.
Q Her mother's name please? A M. C. Allen.
Q Cherokee or white woman? A She is a white woman.
Q Dead or living? A She is living.
Q Is your wife a native of the Cherokee Nation? A Yes sir.
Q Lived here all her life? A She was admitted here in 1883.
Q Have you the certificate of admission? A Yes sir.
The applicant presents an official copy of the records of the office of the Commission on citizenship of the Cherokee Nation, showing that on September 8th, 1883, certain persons were admitted to citizenship, among them Olive Isabell Allen: That is your wifes name, is it? A Yes sir.
Q Have you a certificate of your marriage, showing her change of name? A Yes sir.

The applicant presents a license, issued by the Clerk of the United States, Northern District of the Indian Territory., March 13th, 1900, authorizing marriage between himself and his wife, as stated by him. This marriage was consummated in March of the same year, by the Reverend W. L. Butler: These papers are filed herewith.

(1896 Roll, Page 509, #2218, Charles N. Martin, Delaware D'st)
(1896 Roll, Page 102, #102, Olive I. Allen, Cooweescoowee D'st)

Q When did your father go to Texas? A I can not say.
Q Pretty soon after the war? A Yes sir.
Q He stayed there until 1881, did he? A I think so; I am not sure: All I know about it is hearing him talk about it.

Q Your wife has lived in the Cherokee Nation ever since her admission has she? A Yes sir.

The applicant applies for the enrollment of himself and wife: His wife is identified on the roll of [illegible], and is shown by the official document cited in the testimony to have been admitted to Cherokee citizenship in 1883: Her change of name is established by the marriage license and certificate filed herewith; and she will be listed now for enrollment as a Cherokee by blood.

The applicant himself is identified on the roll of 1896: He states that he was born in the State of Texas: That his father went there soon after the Civil War, and stayed there until 1881; He came here with his father in 1881, and has lived here ever since.

To determine the question of citizenship, under Cherokee Law, that arises in connection with the status of his father, and the applicant being born in the State of Texas; his application for the present will be placed upon a doubtful card, for further consideration; and the final decision of the Commission will be communicated to him at his Post Office address, and will be forwarded to the Secretary of the Interior, whether it be favorable or unfavorable.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Cravens

Subscribed and sworn to before me this 2[illegible]th day of September, 1900.

COMMISSIONER.

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R 426

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 15, 1902.

In the matter of the application of Phillip Theodore Johnson, for the enrollment of himself and children as citizens of the Cherokee Nation.

An examination of the Roll of 1880 shows the name of P. J. Johnson on page 772 of said roll. The P. J. Johnson appearing thereon has been identified as the applicant in this case. His status is there described an an adopted white. The name of his wife Penelope Johnson also appears on said roll.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

Supl.-C.D.#426.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of CHARLES N. MARTIN as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 11, 1902, that his case would be taken up for final consideration by the Commission at its offices at Muskogee, Indian Territory, on the 27th day of February, 1902. Receipt has been acknowledged of Commission's letter, and the applicant this day, to-wit: the 28th day of February, 1902, appears by his attorneys, Mellette and Smith, Vinita Indian Territory.

Mr. W. W. Hastings, Cherokee Representative, present.

Mr. Mellette:- The applicant in this case is the son of John W. Martin, Cherokee doubtful case 418, and asks that the testimony in that case bem ade part of the testimony in this and a copy thereof filed with this case.

Commission: The request of the applicant will be complied with.

The attorney for the applicant and representative of the Cherokee Nation present submit the case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Attorney for the applicant will be allowed 15 days in which to file a brief of the case, one copy with the Cherokee Nation and one copy with the representatives of the Cherokee Nation.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized he correctly recorded the testimony and proceedings had in this case on the above date and that the foregoing is a true and correct transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me thi s March 3, 1902.

Commissioner.

Through D. 446.

In the matter of the
[illegible] of [illegible]
[illegible]
[illegible]
Cherokee Nation.

Relief of Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. April, 9, I902.

In the matter of the application of
Charles N. Martin for enrollment as a
citizen of the Cherokee Nation.

C. D. 426.

BRIEF ON BEHALF OF THE CHEROKEE NATION.

The applicant was born in the state of Texas: He was twenty-four years old, when he applied in I900: His mother was a white woman, and he claims John W. Martin, Cherokee Doubtful Card, D. 4I8 as his father. His father claims to have come to the Cherokee Nation in I88I: Neither are on the roll of I880, and neither were re-admitted to citizenship in the Cherokee Nation subsequent to that time. There is no proof of marriage between parents of the applicant, and applicant's mother was a white woman. The Cherokee Nation can not see how the Commission can enroll the applicant, and refers the Commission to the brief filed by the Cherokee Nation in the case of applicant's father, John W. Martin, Cherokee Doubtful, D 4I8.

Respectfully submitted,
W W Hastings
Attorney for the Cherokee Nation.

No. C.D. 426

Chas N. Martin
vs
Cherokee Nation

Copy for C.N.
Brief of applicants

Mellette & Smith
attys for applican

[illegible]

Mellette & Smith

THE MATTER OF THE APPLICATION OF

X Charles N. Martin

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony, Sept. 25, 1900.

B Memo of application.

C Notice of final consideration 2/27/02

D Order closing testimony, Feb. 28, 1902

Copy

E Testimony from John H. Martin case

F Brief of applicants

Cancelled and transferred to Cherokee No. [illegible]

See Cherokee Jacket 3477

DECISION - R

Char D 427

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D427

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., [illegible], 1900.

In the matter of the application of William L. Thompson for the enrollment of himself and [illegible] as [illegible]; being [illegible] and [illegible] by [illegible], he testified as follows:

[illegible] is your name? A William L. Thompson.
Q [illegible] is your age? A 45.
Q [illegible] is your post office? A Vinita, I.T.
Q [illegible] by blood, or the [illegible] [illegible]? A [illegible], sir.
I [illegible] I [illegible] [illegible].
Q [illegible]? A [illegible].
Q [illegible] you [illegible] citizenship? A [illegible].
Q [illegible] on the [illegible] authenticated roll of 1880? A I think so.
Q [illegible] you apply [illegible] enrollment? A [illegible] children.
I [illegible].
Q [illegible]? A In [illegible].
Q [illegible]? A Yes, sir.
([illegible] of [illegible] Council known as Senate Bill No. 18 17, [illegible] approved [illegible], [illegible], on the [illegible], 18[illegible]. The [illegible] of the [illegible] W. Alberty, [illegible] the seal of the Cherokee Nation. [illegible] admitted by [illegible] the name of W. L. Thompson.)
Q [illegible] the [illegible] L. Thompson mentioned in [illegible]?
A Yes, sir.
Q What is the name of [illegible]? A [illegible] living.
[illegible].
Q [illegible] of the children [illegible] enrollment? A They are [illegible].
Q [illegible] of the [illegible]? A [illegible] 10.
Q [illegible] one? A [illegible], 14 [illegible].
Q [illegible] one? A [illegible] L., 11 [illegible].
Q [illegible] is the name of the [illegible]? A [illegible].
[illegible] living? A No, sir.
[illegible]? A [illegible], [illegible], [illegible] I was [illegible].
Q [illegible] you are talking about? A Yes, sir, [illegible].
Q [illegible] you [illegible] of [illegible] Thompson and [illegible] Thompson; [illegible] for [illegible] you apply for enrollment? A [illegible].
Q [illegible] the name of the mother of your youngest child, [illegible] L.?
A I [illegible], I have four; [illegible] old.
Q What is the name of the mother of [illegible] L.? A [illegible].
Q [illegible] living? A Yes, sir.
Q [illegible] person? A Yes, sir.
Q [illegible] married to her? A Yes, sir.
Q Have you any certificate of marriage? A No, sir.
Q Any proof of marriage here? A I [illegible].

[illegible], being [illegible] and examined [illegible], testified as follows:
Q [illegible] is your name? A [illegible] Thompson.
Q What is your post office address? A Vinita, I. T.
Q Do you know William L. Thompson? A I do.
Q Did you know [illegible]? A Yes, sir, I did.
Q Do you know whether they were married or not? A They were.
Q How do you know? A I was there at the time; I didn't witness the ceremony, but I was living at the time there.
Q Who married them? A Alexander I believe; Parson Alexander.

William T. Thompson - 1.

Q Did he live with that wife until her death? A Yes, sir.
Q Did you have together with him any children by her? A Yes, sir, two children.
Q [illegible] A [illegible].

William T. Thompson, [illegible], testified:
Q [illegible] you have, [illegible] children, Willie L. and Thomas [illegible], two children of [illegible] Thompson? A Yes, sir.
Q [illegible] A Yes, sir.
Q How long have you lived in the Cherokee Nation? A [illegible]
[illegible]

[illegible]

(William T. [illegible])

[illegible] roll of 1880 [illegible] Willie L., [illegible] 1896. [illegible] particularly [illegible] wife [illegible] 1.78. [illegible] the [illegible] that [illegible] children [illegible] 1880. The [illegible] to live in the [illegible] Cherokee [illegible] such [illegible] William T. Thompson [illegible] roll of 1896. Final judgment as to the application for the enrollment of himself and his children will be suspended, [illegible].

[illegible], being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this [illegible]

Commissioner.

D 427

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of William D. Thompson, for the enrollment of himself and children as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself and children as citizens of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission, either in person or by attorney, when an opportunity would be given him to introduce any further testimony affecting his application.

Applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, the case is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee-D-427

DEPARTMENT OF THE INTERIOR,

2,973

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of William D. Thompson for the enrollment of himself and his four minor children Mattie E. Hicks E., Eula L. and Thomas W. Thompson as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 25, 1900, the applicant, William D. Thompson, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his four minor children Mattie E., Hicks E.,, Eula L. and Thomas W. Thompson as citizens by blood of the Cherokee Nation.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that William D. Thompson, Mattie E. Thompson and Hicks E. Thompson were admitted to citizenship in the Cherokee Nation by an act of the National Council approved February 1, 1888. It further appears that all those for whom application is made herein are duly identified on the 1896 Census Roll of the Cherokee Nation. It does not appear that the applicants or any of them have ever removed to and in good faith settled in the Cherokee Nation.

The authority of the Commission herein is defined in Par. 9, Sec. 21 of the act of Congress, June 28, 1898(30 Stats., 495):

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that William D. Thompson, Mattie E. Thompson, Hicks E. Thompson, Eula L. Thompson and Thomas W. Thompson are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in

Indian Territory, and that the application for their enrollment as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby
Acting Chairman.

SIGNED. T. B. Needles
Commissioner.

SIGNED. C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this NOV 12 1902

COMMISSIONERS
Henry L. Dawes
Tams Bixby
Thomas B. Needles
C. R. Breckinridge

Allison L. Aylesworth
Secretary

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 427.

Muskogee, Indian Territory, November 14, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 12, 1902, rejecting the application of William D. Thompson for the enrollment of himself and his four minor children, Mattie E., Hicks E., Eula L. and Thomas W. Thompson, as citizens by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,
C. R. Breckinridge

Commissioner in Charge.
~~Acting Chairman.~~

Enclosure H. No. 21.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-427.

Muskogee, Indian Territory, January 16, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated November 12, 1902, rejecting the application of William D. Thompson for the enrollment of himself and his four minor children, Mattie E., Hicks E., Eula L. and Thomas W. Thompson, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on January 7, 1903.

Respectfully,

Acting Chairman.

IN THE MATTER OF THE APPLICATION OF

William D. Thompson et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Sept. 25, 1900

B Memo of application

C Notice of final consideration 2/17/02

D Certif. of Readmission

E Certified copy of marriage license & certif.

F Order closing testimony, Feb. 27, 1902

[illegible]

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED
SEP 27 1900

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 25,1900.

In the matter of the application of Thomas F. Thompson for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q What is your full name? A Thomas F. Thompson.
Q What is your age? A 3[illegible].
Q What is your post-office? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself.
Q Are you a Cherokee? A Yes sir.
Q What proportion of Cherokee blood do you claim? A 1/16
Q ~~Who is it you want to have~~ How long have you lived in the Cherokee Nation? A 7 years.
Q Were you admitted by the Cherokee authorities? A I was, in 1896, by extra session of Council.
Q Let me see your certificate? A I haven't my certificate.
Q You are not on any roll? A Yes sir, I am on the roll of 1894 and 1896.
Q Give me the name of your father? A T. J. Thompson.
Q Cherokee or a white man? A Cherokee.
Q Dead or alive? A Dead.
Q How long has he been dead? A [illegible] years.
Q What is your mother's name? A Margaret Thompson.
A She is dead, been dead about nine years.
1896 roll page [illegible] #[illegible] Thos F. Thompson, Cooweescoowee Dist.
Q Have you lived here ever since your admission in 1896? A Yes sir.

Comm'r Breckinridge: The applicant is identified on the roll of 1896; he claims to have been admitted into the Cherokee Nation by Act of the Cherokee Council in extra session in the year 1896; he states that he has lived in the Cherokee Nation ever since his admission by the council, and long prior thereto; his application at this time will be placed upon a doubtful card, and he is required to present to the Commission with official evidence of his admission in 1896 as claimed by him.

M.D.Green, being first duly sworn, states that as stenographer to the Five Civilized Tribes Commission he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

MDGreen

Subscribed and sworn to before me this 25 day of September 1900.

Commissioner.

D #28

Cherokee D-428.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 17, [illegible]

In the matter of the application of Thomas F. Thompson for enrollment as a citizen of the Cherokee Nation.

Supplemental testimony on behalf of the applicant.

Appearances:
Applicant present:
J. L. Baugh, Cherokee Representative.

Mr. Thompson, the applicant: I just want to get Mr. Gunter's evidence here to substantiate the fact that I was admitted by a Committee appointed by Council in 1886.

Mr. Baugh: I object to that.

Commissioner: That is no evidence, you will have to get a copy of the record.

Mr. Thompson: Well they claim down there that that record can't be found; I was told it would be all right to produce witnesses in the absence of the copy of the record.

Commissioner: There should be a certificate of admission somewhere; did you get a certificate when you were admitted?

Mr. Thompson: A No, sir.

Commissioner: They never admitted any person without giving them a certificate.

Mr. Thompson: Well I never got a certificate of admission.

THOMAS F. THOMPSON, the applicant, being sworn and examined by Commissioner Needles, testified as follows:

Q Are you the Thomas F. Thompson who applied to the Commission at Vinita on the 25th of September to be listed for enrollment as a Cherokee by blood? A Yes, sir.

Q I understand in your testimony you stated that you were admitted by the Cherokee Council? A By a committee that was appointed by the Cherokee Council in 1886!

Q Have you any certificate of admission? A No, sir.

Q Was any ever issued to you? A No, sir.

Q Well have you had the records of the Cherokee Council examined? A Yes, sir.

Q Well, was there any record of your admittance found? A No, sir, my attorney, Mr. Bell, says there is no record of the action of that Committee, no record can be found, hasn't been to date, they have been lost, that was his statement to me, that no record can be found of the action of this Committee and I was advised that the statement of these witnesses who were on that Committee would perhaps answer the same purpose.

Mr. Baugh: Did you write to the executive secretary for this information that you desire? A No, sir.

Commissioner: You have no certificate here at all from the Executive Secretary of the Cherokee Nation that he has examined the records and that your name cannot be found? A No, sir.

Commissioner: Well I will take this testimony to satisfy you, but I will tell you now it will not amount to anything.

JOHN T. GUNTER, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John T. Gunter.

Q What is your age? A 46.

Q What is your postoffice address? A Vinita.

Q Do you know Thomas F. Thompson, the applicant? A Yes, sir.

Q How long have you known him? A I have known him about six years.

Q Well, state what you may know about him being admitted to citizenship? A I don't know anything about an act of admission, I was one of a Committee to revise the census rolls of 1896 and Mr.

Thompson's name appeared as a doubtful; well we took it up and examined some witnesses in regard to his case and the best of my recollection, we found that he was taken from here a minor and returned a minor and that we enrolled him as a citizen.

Q That was on the census roll of 1896? A Yes, sir; why there was no record of the matter by the clerk of the Committee I can't tell.

Q Was that ever approved by the Cherokee Council? A Yes, sir, all of our actions was approved by the Council; that is, our report was accepted and approved.

Mr. Baugh: Mr. Gunter, you were a senator at that time? A Yes, sir.

Q Well, In making the roll of 1896, did the Cherokee Council take any action on that roll? A What do you mean by any action on that roll?

Q Did they accept the roll; did the Cherokee Council? A As a whole they didn't, no, sir.

Q Then your action, or the committee's action, to your understanding, would not have been accepted or passed upon unless the roll had been accepted, would it? A I suppse not, I am sure it wasn't accepted as an authenticated roll.

Thomas F. Thompson, the applicant, recalled:

Commissioner: What was your father's name? A W. W. Thompson.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon any of the rolls of the Cherokee Nation? A I don't know whether it does or not.

Q Is he living? A No, sir.

Q When did he die? A He died in '73 I believe, or '74.

Q Was your mother a citizen of the Cherokee Nation? A No, sir.

Q Where did your father die? A In Texas.

Q He wasn't a citizen of the Cherokee Nation then at the time he died? A No, he was a resident of Texas, he was a citizen, a resident of Texas.

Q Where were you born? A In Texas.

Q Anything else you desire to submit? A No, sir, nothing else.

Commissioner: This will be filed with the papers.

●●●●●●●●●●●

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and completetranscript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 18th of October, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 17, 1902.

In the matter of the application of Thomas W. Thompson, for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation, would be taken up for final consideration by the Commission on the 17th day of February, 1902, and that he could then appear before the Commission either in person or by attorney, and an opportunity would be given him to introduce any additional testimony affecting the application.

Receipt has been acknowledged of the Commission's letter.

Applicant having failed to appear this, the 17th day of February, 1902, was called three times, and failing to respond either in person or by attorney, it is ordered that the case be closed and presented to the Commission for final decision based upon the evidence now of record.

FIVE CIVILIZED TRIBES
REC'D
FEB 1902

Commissioner.

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D 428

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Thomas F. Thompson, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any additional testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

Applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that the case be closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 24th, 1902.

In the matter of the application of Thomas F. Thompson for the enrollment of himself as a citizen by blood of the Cherokee nation.

Supplemental to D-428.

Appearances:
Applicant appears in person.
Cherokee Nation by W. W. Hastings.

THOMAS F. THOMPSON, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Thomas F. Thompson.
Q. What is your age? A. 30.
Q. What is your post office address, Mr. Thompson.
A. Vinita is my residence, my temporary address is White Oak. White Oak, Indian Territory.
Q. Where were you born, Mr. Thompson? A. Born in Texas.
Q. When did you first come to the Cherokee nation? A. I came here to reside in 1893, I believe it was.
Q. Had you ever been here prior to that time? A. Yes. Not to live.
Q. Just on a visit? A. Yes, sir.
Q. Have your parents continued to live in Texas. A. Yes, sir. At the time I moved here I had no parents. I was two years old when father died and I believe I was 17 when mother died.
Q. Did your mother ever reside in the Cherokee nation?
A. No, sir.
Q. She was a white woman? A. Yes, sir.
Q. How long had your father been residing in the state of Texas prior to his death? A. I couldn't answer that. Mr. Thompson, the witness here, I suppose could. I don't know just when he left the Cherokee nation.
Q. Where have you been residing since 1893? A. Vinita.
Q. Have you been in the Cherokee nation continuously since that time? A. Yes, sir.
Q. You have never made your home outside? A. No, sir.
Q. Did you apply to the tribal authorities to be admitted to citizenship? A. Well, I did, as the evidence will show there, in 1896, before a committee appointed by the council, not before the council. You have the evidence there. It was before a committee appointed by the council in 1896. That was all given in the evidence before.
Q. Was that committee appointed to revise the census roll of 1896?
A. I don't know the purpose of the committee exactly. They had a number of cases left off the roll and I suppose it was the purpose of the committee to take up these cases and see whether they were entitled to be on the roll or not.
Q. Who was the committee composed of, do you know? A. John Gunner. I don't know their names. I had them. I remember Mr. Gunner
Q. Did the members of that committee all reside in Cooweescoowee district? A. I suppose they did. I can't answer that. I wasn't personally acquainted with the committee.
Q. They were persons from Cooweescoowee district to revise the roll of that district. A. There was Col. L. B. Bell. Yes, that was the purpose; that was my information.
Q. How old did you say you were? A. [illegible].

T. F. THOMPSON, being duly sworn, testified as follows:—

Examination by the Commission.

Q. What is your name? A. T. F. Thompson.
Q. How old are you. I am right along about 84 years old.
Q. What relation, if any, do you bear towards the applicant?
A. He is a cousin.
Q. Did you know his father? A. Yes, I knew his father.
Q. When did he leave the Cherokee nation? A. I don't know exactly when he left. Sometime before the war.
Q. Did he ever return to the Cherokee nation for the purpose of making his home after he went away? A. Not that I remember of.
Q. How long have you known the applicant in this case?
A. I have known him about 10 or 12 years.
Q. Have you known him continuously since he came to the Cherokee nation? A. Yes, sir.
Q. Where has he been residing during that time? A. Vinita. He resided at Chelsea, I think, some. Cherokee nation.
Q. Was his father a Cherokee by blood? A. Yes, sir.
Q. Recognized as such before he left the territory? A. Yes, sir.
Q. Was the applicant's mother a Cherokee or white woman?
A. I think she was a white woman.
Q. Did they live in Texas? A. Yes, sir.
Q. Do you know anything about the application which he claims to have made in 1896 for enrollment? A. No, I don't know anything about that.

The Applicant, being recalled, testified as follows:

Examination by the Commission.

Q. Did you draw any money outside of the strip money? A. No, sir.
Q. Are you married? A. Yes, sir.
Q. How long have you been married? A. Married three years.
Q. Is your wife a Cherokee or white woman? A. White woman.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 26th day of July, 1902.

Notary Public.

Cherokee D-428.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Thomas F. Thompson and his minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation.

--:--

DECISION.

The record herein shows that on September 25, 1900, Thomas F. Thompson appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, October 17, 1901, and at Muskogee, Indian Territory, February 27, and July 24, 1902. Subsequently there was filed with this Commission an affidavit, which is made a part of the record in this case, showing the birth of Maurine Thompson on September 30, 1901.

The evidence herein shows that one W. W. Thompson, a Cherokee by blood, and who prior to the Rebellion removed from the Cherokee Nation to the state of Texas, and became a resident citizen thereof, continuously residing in said state until his death in 1873 or 1874, is the father of the principal applicant, Thomas F. Thompson.

Section two, article one, of the Cherokee Constitution, in part, provides:

> "Whenever any person shall remove with his effects out of the limits of this nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this nation shall cease; ... ..."

The evidence further shows that the said Thomas F. Thompson was born in Texas, about the year 1872, and continuously lived in said state until the year 1893, when he removed to the Cherokee Nation and has since continuously resided therein; that he possesses no rights to enrollment other than as a descendant of his said father, has not complied with the provisions of law relative to readmission of persons to citizenship in the Cherokee Nation, and can not be identified on any of the Cherokee rolls, except the Cherokee Strip Payment roll of 1894. An examination of the 1896, census roll of the Cherokee Nation, shows that the identification of the applicant thereon as shown by the testimony herein, is an error, and that such enrollment properly belongs to another Thomas F. Thompson, who is included in a partial roll of Cherokees by blood, approved by the Secretary of the Interior, December 6, 1902, at No. 8671. The minor applicant herein is a child of the principal applicant, Thomas F. Thompson, and possesses no rights to enrollment other than as a descendant of her said father.

It is, therefore, the opinion of this Commission that the name of Thomas F. Thompson (principal applicant herein), is on the Cherokee Strip Payment roll of 1894, without authority of law, and that the application for the enrollment of the said Thomas F. Thompson and Maurine Thompson, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman

(SIGNED). T.B. Needles.
Commissioner

(SIGNED) C.R. Breckinridge.
Commissioner

Dated at Muskogee, Indian Territory,
this MAR 15 1905

C7B

Cherokee D 428

COPY

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Thomas F. Thompson and his minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation.

-:-

DECISION.

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, on September 25, 1900, Thomas F. Thompson appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory , October 17, 1901, and at Muskogee, Indian Territory, February 27 and July 24, 1902. Thereafter, on October 31, 1902, there was filed with said Commission an affidavit which is filed herewith and made a part of the record in this case, showing the birth of Maurine Thompson on September 30, 1901.

The records further show that on March 15, 1905, the Commission to the Five Civilized Tribes rendered its decision herein denying said applicants the right to enrollment as citizens by blood of the Cherokee Nation, which decision was, on March 18, 1905, forwarded to the Secretary of the Interior; and that thereafter, on November 23, 1905 (I.T.D. 3302-1905), the Department set aside said decision of the Commission to the Five Civilized Tribes, for the reason that all the testimony taken in said case was taken prior to the dates of the leading opinions touching upon the subject of expatriation rendered by the Assistant Attorney General, and returned said case for further hearing and readjudication.

The records further show that since the return of said case to this office said principal applicant has twice been given an opportunity to appear and introduce further testimony as to the right of himself and minor child to enrollment as citizens by blood of the Cherokee Nation, but has failed to do so. On February 6, 1906, said applicant advised this office by letter, which letter is filed herewith and made a part of the record in this case, that:

> "My father removed to Texas before he was married; he did not consider the territory his home, and did not own property here at the time of my birth or since. I think the Commission has all the testimony I would be able to give. My error was in my not being properly readmitted when I came here."

In view of the foregoing I am of the opinion that for the reasons set forth in said decision of the Commission to the Five Civilized Tribes of March 15, 1905, Thomas F. Thompson and Maurine Thompson are not entitled to enrollment as citizens by blood of the Cherokee Nation, and that said decision should be, and the same is, hereby affirmed.

SIGNED. Tams Bixby.
Commissioner

Dated at Muskogee, Indian Territory,
this APR 16 1906

Cherokee-D. 428

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Thomas F. Thompson for the enrollment of himself as a citizen by blood of the Cherokee Nation.

SUPPLEMENTAL STATEMENT.

The applicant, Thomas F. Thompson, is identified on the 1894 Pay Roll of the Cherokee Nation, page 309, No. 4121.

It is ordered that copies of this statement be filed with the testimony in this case.

Commissioner.

Muskogee, Indian Territory,

this ______________________________

JBW

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-428.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 15, 1905.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilised Tribes, dated March 15, 1905, rejecting the application for the enrollment of Thomas F. Thompson, and his minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Enc. JD 2-15

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21279-1905

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, March 30, 1905

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated March 15, 1905, transmitting the record of the application for enrollment as citizens by blood of the Cherokee Nation by Thomas F. Thompson for himself ad his minor child, Maurine Thompson.

March 15, 1905, the Commission decided adversely to the applicants.

The record shows that one W. W. Thompson, a Cherokee by blood, and who prior to the war of the rebellion removed from the Cherokee Nation to the State of Texas and became a resident citizen thereof continuously residing therein until his death in 1873 or 1874, is the father of the principal applicant, Thomas F. Thompson.

The evidence further shows that Thomas F. Thompson was born in Texas about the year 1872, and continuously lived in that state until about the year 1893, when he removed to the Cherokee Nation and has since continuously resided therein; that he possesses no rights to enrollment other than as a descendant of his said father, has not complied with the provisions of law relative to the readmission of persons to citizenship and cannot be identified on any Cherokee roll. The minor applicant is the child of the principal applicant and possesses no rights to enrollment other than as a descendant of her father.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

C. F. Larrabee
Acting Commissioner

M.M.M.
W.

D. C. 53275-1905
I.T.D . 3302-1905.

(C O P Y)

J.W.H.
Y.P.
FHE

L R S

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

November 23, 1905.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

The Department has considered the record in the matter of the application of Thomas F. Thompson for the enrollment of himself and his minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation, transmitted by the Commission to the Five Civilized Tribes on March 15, 1905. Upon said date the Commission rendered a decision, concurred in by the Indian Office on March 30, 1905, adverse to the a plicants.

Testimony in this case was taken September 25, 1900, October 17, 1901, and July 24, 1902 . These dates are prior to the dates of the leading opinions touching upon the subject of expatriation rendered by the Assistant Attorney General for this Department. This question is the principal one involved in the case under consideration.

The principal applicant was born in 1872 in Texas. Some time prior to the civil war, exact time unknown, the applicant's father, then a citizen of the Cherokee Nation, removed to Texas, where he continued to reside until his death in 1874. The son has resided continuously in the Cherokee Nation since 1893. It is impossible to determine from the record as it now stands whether the father expatriated himself within the meaning of the term as defined by the opinions referred to above. It is desired that additional testimony be taken upon this point, showing, if possible whether he removed with his effects to Texas; whether he identified himself with that state, and at what specific time, if at all, his Cherokee citizenship terminated. This additional testimony is necessary in order to determine whether the applicant's father was at the date of the applicant's birth a citizen in good standing in the Cherokee Nation.

In view of the testimony of ex-Senator John T. Gunter, of the Cherokee council it is desired that further investigation be made to determine whether the applicant is the Thomas F. Thompson whose name appears upon the 1896 Cherokee roll.

The decision of the Commission of March 15, 1905, is hereby set aside. Further investigation is directed in accordance herewith.

Inclosed herewith is a copy of Indian Office letter of March 30, 1905, which contains the statement that the applicant's name can not be identified on any Cherokee roll. This is clearly erroneous, inasmuch as the record positively shows that his name is borne on the 1894 pay roll.

The record in the case is also returned herewith.

Respectfully

(Signed) THOS RYAN
First Assistant Secretary

Through the Commissioner
of Indian Affairs.
2 inclosures.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-428.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 1, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that this office is in receipt of Departmental letter of November 23, in which the decision of the Commission to the Five Civilized Tribes in the Cherokee enrollment case of Thomas F. Thompson, et al., dated March 15, 1905, is set aside and the record in said case returned to this office in order that a further hearing may be had. Further testimony is desired as to whether the father of Thomas F. Thompson, prior to his death, expatriated himself within the meaning of the term as defined by the opinions of the Assistant Attorney General for the Interior Department; whether he removed to the state of Texas with his effects and identified himself with that state, and what specified time, if at all, his Cherokee citizenship terminated.

Said Thomas F. Thompson has, this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, December 21, 1905, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that day and introduce any testimony it may desire in this case.

For your information, there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,

Wm. C. Beall

Incl. S-3

Acting Commissioner.

0768

REFER IN REPLY TO THE FOLLOWING
Cherokee D-428.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, April 16, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated April 16, 1906, affirming the decision of the Commission to the Five Civilized Tribes, dated March 15, 1905, rejecting the application of Thomas F. Thompson for the enrollment of himself and minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Wm O. Beall

Incl. S-66

Acting Commissioner.

Refer in reply to the following:

Land
34771-1906.

COPY.

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 6, 1906.

The Honorable,
The Secretary of the Interior.

Sir:--

Referring to Departmental letter of November 23, 1905, (I.T.D. 3302-1905), there is inclosed herewith a report from the Commissioner to the Five Civilized Tribes, dated April 16, 1906, transmitting the record relative to the application of Thomas F. Thompson, et al., for enrolment as citizens of the Cherokee Nation.

On September 25, 1900, Thomas F. Thompson applied for enrolment as a citizen by blood of the Cherokee Nation at Vinita, Indian Territory. Further proceedings were had at Muskogee, Indian Territory, on October 31, 1902, at which time Thomas F. Thompson filed an affidavit which was made a part of the record in this case, showing the birth of Maurine Thompson on September 31, 1901.

The Commissioner held on April 16, 1906, that these parties were not entitled to enrollment as citizens of the Cherokee Nation. The record in this case shows that proceedings were had in reference to the application at Vinita, Indian Territory, on September 25, 1900, and October 17, 1901, and at Muskogee, Indian

Territory, on February 27th, and July 24th, 1902, and that the affidavit above referred to was filed on October 31, 102.

The record further shows that on March 15, 1905, the Commission rendered its decision denying the applicants the right of enrolment as citizens, and that the decision was forwarded to the Department on March 15, 1905; that the Department on November 23, 1905, (I.T.D. 3302-1905), set aside the decision of the Commission for the reason that all the testimony taken in the case was given prior to the dates of the leading opinions touching the subject of expatriation rendered by the Assistant Attorney-General, and returned the case for further hearing and read judication.

The records show that the principal applicant, Thomas F. Thompson, was twice given an opportunity to appear and introduce further testimony, but that he failed to do so, and that on February 6, 1906, he advised the Commissioner to the Five Civilized Tribes that he had no further testimony to offer.

In view of the record the approval of the Commissioner's decision is recommended, and it is further recommended that the application for the enrollment of Thomas F. Thompson and his minor child, Maurine Thompson, be rejected.

Veryrespectfully,
C. F. Larrabee.
Acting Commissioner.

HRD-KEW.

J.Y.Jr.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D. 19704-1906. January 17,1907.

L.R.S.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

April 16, 1906, the Acting Commissioner transmitted the record in the matter of the application for the enrollment of Thomas F. and Maurine Thompson as citizens by blood of the Cherokee Nation, including your decision of the same date, adverse to the applicants.

Reporting October 6, 1906 (Land 34771), the Indian Office recommended that your decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

(Signed) Thos. Ryan.
Fistt Assistant Secretary.

Through the Commissioner
of Indian Affairs.
1 inc. and 2 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
D 428.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 29, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated April 16, 1906, rejecting the application for the enrollment of Thomas F. Thompson and his minor child, Maurine Thompson, as citizens by blood of the Cherokee Nation, was on January 17, 1907, affirmed by the Secretary of the Interior.

For your information there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Incl. GL-61.
GHL

HE MATTER OF THE APPLICATION OF

Thomas J. Thompson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Original testimony Sept. 25, 1900
Memo. of application
C Supplemental testimony, Oct 17 - 1900
D Notice of final consideration 2/27/02

[illegible]

E Order closing testimony, Feb. 27, 1902

Decision - E R

OCT 14 1907 [illegible]
[illegible]

Cher D 429

Cher D 429

D4459

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Bradley Gordley, for the enrollment of himself as a citizen of the Cherokee Nation.

Applicant was notified by registered letter on February 11, that his application to be enrolled as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by his agent J. S. Sequichie.

The Commission: Do you desire to make any statement relative to this case?

Mr. Sequichie: Nothing only some certificates on file.

Do you submit it to the Commission? A Yes sir.

The applicant, by his agent, and the representative of the Cherokee Nation present, submit this case to the Commission, and the same is ordered closed and referred to the Commission for final decision based upon the evidence now of record.

J. O. Rosson, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he reported and recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

Subscribed and sworn to before me this February 27, 1902.

Commissioner.

"R"

D 439

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Bradley Cordley, for the enrollment of himself as a citizen of the Cherokee Nation:

Applicant was notified by registered letter on February 11, that his application to be enrolled as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by his agent J. R. Sequichie.

The Commission: Do you desire to make any statement relative to this case ?

Mr. Sequichie: Nothing only some certificates to file.

Do you submit it to the Commission ? A Yes sir.

The apllicant, by his agent, and the representative of the Cherokee Nation present, submit this case to the Commission, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 27, 1902.

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Mary S[illegible]ck et al

FOR ENRO[illegible]S

CHEROKEE CITIZENS.

CANCELLED

Transferred to
Cher. Jacket 3187.

D 429

IN THE MATTER OF THE APPLICATION OF

Mary Sudduck et al

FOR ENRO[illegible]S

CHEROKEE CITIZENS.

CANCELLED

Cher D #3C

Cher D #3D

D430

COMM

SEP 17 1900

ING CHARGE

POOR ORIGINAL -
BEST AVAILABLE COPY

[illegible] AS TO [illegible], [illegible] F. GREEN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., [illegible] 20, 190[illegible].

In the matter of the application of [illegible] L. Green for the enrollment of himself, [illegible] children as Cherokee citizens; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q What is your full name? A [illegible] L. Green.
Q How old are you? A 61.
Q What is your post-office address? A Vinita.
Q What district do you live in? A Delaware.
Q Who is it you want to have put on the roll? A Myself, wife and [illegible] children, under age, and one [illegible] of age in the Phillipines.
Q Do you apply for yourself as a Cherokee by blood? A I am a white man, and [illegible] Cherokee.
Q [illegible] is your wife, Cherokee? A Yes sir.
Q Have you your marriage license and certificate? A [illegible], sir. I was married in 186[illegible].
Q You are on the roll of 1880? A Yes sir; my first wife is dead, and this is another wife; I have two sets of children here.
Q Your first marriage was when? A 1869
Q To whom were you married then? A Sarah E. Bell[illegible].
Q What was she? A Cherokee.
Q Is she dead? A Yes sir.
Q How long has she been dead? A She died about [illegible] years ago.
Q She is on the roll of 1880? A Yes sir, I guess so.
Q When did you marry the second time? A I married in the year 189[illegible] or 3.
Q Who was it you married then? A I married [illegible] Tiger.
Q [illegible] when you married her was Tiger? A Yes sir.
Q Was Tiger her maiden name? A No, her maiden name was [illegible] Francis,
Q Is she living now? A [illegible], she is at home.
Q What is she, a white woman or a Cherokee? A She is a Cherokee.
Q How old is she now? A She was born in 1873.
Q She is on the roll of 18[illegible] as a Francis? A I think she is there as [illegible] Tiger.
Her step-father is named Tiger, and [illegible] gets that name.
Q She never was married to a man named Tiger. A [illegible], no.
Q In what district were you enrolled in 1880? A Delaware.
Q In what district in 1880? A Delaware.
Q In what district was your present wife enrolled in 18[illegible]
A I don't know.
Q Give me her father's name? A John Francis, a Cherokee.
Q Dead or alive? A He is dead.
Q How long has he been dead? A I don't know.
Q [illegible] mother's name? A [illegible]
Q Is she dead or alive? A [illegible] is dead.
Q Is she a white woman? A Yes sir.
Q How long has she been dead? A Died about 1892 or 3.
Q [illegible] it happen that your wife [illegible] in her girl-hood [illegible] Francis [illegible] Tiger? A Tiger was her step-father.
Q [illegible] the names of [illegible] children? A [illegible] Connell.
Q [illegible] is this child? A [illegible] of October 18[illegible].
Q [illegible] child? A [illegible] Connell, girl.
Q How old is that child? A 7 [illegible]
Q [illegible] child? A [illegible] Green.
Q How old is that child? A Born April 1st, 1894.
[illegible] Green,
Q How old is that child? A Born in March, 1897.
[illegible] F. Green.
Q [illegible] A [illegible] 22

Q [illegible] Cornell children, [illegible] the [illegible] Green children, your [illegible] A [illegible].
Q [illegible] A Yes sir.
Q When was you married to Cornell? A It was about 11 years ago
Q What was his full name? A Henry Cornell.
Q [illegible] A [illegible] him.
Q [illegible] A [illegible], she was divorced from him.
Q [illegible] did she live with him? A I don't know; three or four years I think.
Q Did she get a decree of divorce? A Yes sir.
Q [illegible] a copy of the decree? A [illegible] sir.
Q Her name was [illegible] Cornell, from the married [illegible] A Yessir
Q [illegible] a certificate of your marriage? A [illegible].
Q Is she on the roll of 1880 as a Tiger, or a [illegible] A Yes sir.
Q [illegible] anybody here who knew her in her childhood?
A [illegible] Ahlejackie.
1880 roll page 200 #1142 W. L. Green, Delaware District;
1880 roll for first wife page [illegible] #1143 Sarah Green Delaware Dist; [illegible].
1896 roll for present wife, page 380 #2744 Emma Tiger, Delaware, [illegible];
1896 roll page 200 #1136 Jonnette Green, Delaware District;
1896 roll page 577 #[illegible] children of Wiley L. Green, Delaware Dist;
1896 roll page 602 #[illegible] [illegible] Green, Delaware Dist;
1896 roll page 602 #116 Bella Cornell Delaware Dist;
1896 roll page 602 #117 Ida Cornell Delaware Dist;
1896 roll page 602 #[illegible] [illegible] Green
1896 roll page 602 #[illegible] Jonnette Green,

[illegible], being sworn and examined by Commissioner Breckinridge testified as follows:

Q What is your name? A [illegible] Ahlejackie.
Q What is your age? A 56
Q What is your post-office? A Vinita.
Q How long have you lived in the Cherokee Nation? A [illegible]
Q Do you know the applicant here, Mr. Wiley L. Green? A Yessir
Q Do you know his wife? A Yes sir.
Q Her name is Emma? A Yes sir.
Q What was her maiden name? A [illegible].
Q What was the name of her step-father who brought her up?
A [illegible] Tiger.
Q You lived in the family when she was a child? A Yes sir.
Q She is on the roll of 1880 as either a [illegible] or a Tiger?
A Yessir
Q She did marry [illegible] before she married Mr. Green? A Yes, married [illegible].
Q Has she got any [illegible] children? A 2 children.
Q You know her to be [illegible] wife? A Yessir.
Q And they are two of the [illegible] children? A Yes sir, Nell and Jim.
Q Jim, that's a boy's name, but it's a girl? A It's a girl.

Applicant [illegible] questioned by Comm'r Breckinridge:

Q In what company [illegible] were you engaged? A Company K 32nd United States [illegible] Infantry.

Comm'r Breckinridge: This applicant applies for the enrollment of himself, [illegible] wife and five children; two of them are step children of his, and one is a child by his first wife, who is now of

Willey L. Green et al 3

are now in the Philippine Islands in the service of the Government. [illegible] applicant is identified on the rolls of 1880 and 1896 as an adopted white; both his father and his present wife are identified on the rolls of [illegible]; he has lived in the Cherokee Nation since [illegible] 1879; [illegible] to his present marriage [illegible] to an adopted [illegible], and he will be listed now for enrollment as a Cherokee by adoption.

His wife is identified on the rolls of 1880 and 1896 as a native Cherokee; she has lived in the Cherokee Nation all her life and she will be listed now for enrollment as a Cherokee by blood.

Her two children by a former marriage, Will and Birdie Connell, are identified on the roll of 1896 [illegible]; they are living at this time and her marriage is [illegible] by satisfactory personal evidence, and these children will be listed now for enrollment as Cherokees by blood.

The child, Wesley Green, a child of the present marriage, is identified on the roll of 1896; he is living at this time, and will be listed for enrollment as a Cherokee by blood.

When the Commission is supplied with proper certificates of the birth of the youngest child, [illegible] Green, this child will also be listed for enrollment as a Cherokee by blood.

In regard to the application for the enrollment of said child, Ernest F. Green, a child of the applicant's first marriage; he is identified on the rolls of 1880 and 1896; he is now 23 years of age and is unable to apply for himself by reason of being in the Government service in the Philippine Islands. In order to communicate with the proper authorities, and consult the official records the application for the enrollment of this man will for the present be placed upon a white card; and the final decision of the Commission will be communicated to the applicant at his post-office address.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 26 day of September 1902.

C R Breece

Commissioner.

E430

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 19 1903
CHAIRMAN.

AAD.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, Indian Territory, February 3rd, 1903.

In the matter of the application of Bennett F. Green for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood. } Cherokee D-430.

Bennett F. Green, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. Bennett F. Green.

Q. How old are you? A. I was born in '76, March 29th.

Q. What is your post office address? A. Vinita, Indian Territory.

Q. Are you a Shawnee Indian? A. Yes, sir.

Q. Your father is a white man? A. Yes, sir.

Q. Your mother is a Shawnee? A. Yes, sir.

Q. Where were you born? A. I was born about 15 miles east of Vinita on Grand River.

Q. In the Cherokee Nation? A. Yes, sir.

Q. Are your parents living? A. No, sir; my father and mother is both dead.

Q. When did they die? A. Why, my mother died in '89, my father died in 1900.

Q. Two years ago? A. Yes, sir. He was the one that had me enrolled.

Q. Was your father residing in the Cherokee Nation at the time of his death? A. Yes, sir; living ~~mxk~~ right here in Vinita.

Q. He lived in the Cherokee Nation ever since he was married to your mother? A. Yes, sir.

Q. Have you lived in the Cherokee Nation all your life?
A. Yes, sir.

Q. Living here now? A. Yes, sir.

Q. Are you married? A. No, sir.

Q. You were in the United States army? A. Yes, sir.

Q. When did you join the army? A. I joined July 31st, 1899.

Q. Were you living in the Cherokee Nation then?
A. Yes, sir.

Q. Had lived there always up to that time? A. Well, I went to school in Pennsylvania before that about three years.

Q. Your father was living here? A. Yes, sir.

Q. This was your home? A. Yes, sir; this was my home.

Q. You joined the army in 1899? A. Yes, sir.

Q. Where did you go after joining the army? A. I went to the Philippine Islands.

Q. How long did you stay there. A. We got to the United States April 29th, landed April 30th, 1901.

Q. Then you time was up, was it? A. Yes, sir; I was mustered put May 8th, 1901 and reached Vinita May 12th.

Q. You have been living here ever since? A. Yes, sir; been living here ever since.

Jesse O. Carr on oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 8th day of May, 1903.

Samuel Foreman
Notary Public.

Cherokee D 430

JAC

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Bennett F. Green as a citizen of the Cherokee Nation of Shawnee blood:

DECISION

The record in this case shows that on September 25, 1900, Wiley L. Green appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of his son, Bennett F. Green, as a citizen of the Cherokee Nation of Shawnee blood. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on February 3, 1903.

The evidence shows that the applicant, Bennett F. Green, is of Shawnee blood and duly identified on the 1880 authenticated roll and the 1896 census roll of the Cherokee Nation as an adopted Shawnee.

The evidence further shows that the applicant was born and has always lived in the Cherokee Nation excepting a period of about two years, from 1899 to 1901, during which time he was in the army of the United States.

It is, therefore, the opinion of this Commission that Bennett F. Green should be enrolled as a citizen of the Cherokee Nation of Shawnee blood, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby Chairman.

(SIGNED) T. B. Needles. Commissioner.

(SIGNED) C. R. Breckinridge. Commissioner.

(SIGNED) W. E. Stanley. Commissioner.

Muskogee, Indian Territory,
this SEP 18 190

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D-430

Muskogee, Indian Territory, September 22, 1903

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 18, 1903, granting the application of Bennett F. Green for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Enc. D-11

Chairman.

IN THE MATTER OF THE APPLICATION OF

Bennett F. Green

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony, Sept. 25, 1900
B. Memorandum of application.

Copy of [illegible] filed
[illegible]
[illegible]

Cancelled and transferred
to Cherokee No. [illegible]

See Cherokee Jacket, 3494

Decision &c.

Cher D 431

Cher D 431

D 431

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 26,1900.

In the matter of the application of Charles Elmer Pierce for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q What is your name? A Charles Elmer Pierce.
Q How old are you? A 19 years old.
Q What is your post-office? A Afton.
Q What district do you live in? A Delaware.
Q Who is it you want to have put on the roll? A Myself.
Q Are you a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee Nation? A 17 years.
Q Were you admitted by the commission? A (Produces papers)
Q What is your mother's name? A Josephine. Dawson.
Q What is the name of your father? A Thomas Pierce.
Q Cherokee or a white man? A White man.
Q Dead or alive? A Dead.
Q How long since he died? A About 17 years.
Q Did your mother marry her husband Pierce after your father's death? A No sir.
Q Dawson was her maiden name? A Yes sir.
Q Is she alive or dead? A Dead.
Q How long has she been dead? A About 8 years.
Q Was she ever married except to your father? Yes sir.
Q When did she marry your father? A They run off.
Q Did you ever apply to the Dawes Commission for admission to Cherokee citizenship, did you apply to any Commission or any authority for admission to citizenship? A No sir, not as I know of.
Com'r Breckinridge: The applicant presents official copy of the act of the Cherokee Commission, showing that on the 11th day of January 1883 certain persons were admitted to citizenship by the Cherokee Commission and among them appears the name of Josephine Dawson; this he states was the maiden name of his mother.
Q Your mother was a Cherokee was she? A Yes sir.
Q When was your mother married to your father? Q Have you got any older brothers or sisters? A Yes sir.
Q She was married before 1883; she was married to your father before she was admitted? A Yes sir.
Q And your name is not on the list of admitted citizens? A No sir.
Q And your father's name is not on that list? A No sir.
Q You have lived here ever since 1883 have you? A Yes sir.
Q Been living all the time in the Cherokee Nation? A Yessir.
1896 roll page 315 #2380 Charles E. Pierce Delaware District.
Q Did your mother come here in 1883 when she was admitted?
A Yes sir, I think so, I don't know for certain, but I think she did.
Q Has she lived here ever since you could remember? A Yessir.
Q And lived here until she died eight years ago? A Yes sir.

Com'r Breckinridge: The applicant is identified on the roll of 1896 as a native Cherokee; his mother is shown to have been admitted in 1883 by the official documents cited in the testimony; the applicant states that his mother lived in the Cherokee Nation from the time of her admission or about that time, until her death, some eight years ago, and that he has lived in the Cherokee Nation seventeen yearsHe is not mentioned on the certificate of admission cited in the testimony, nor does he claim to have ever been admitted in terms by any authority; his mother was married to his fath er Pierce prior to the period of her admission. His application will be placed upon a doubtful card, for the further consideration of the commission.

Statement by Cherokee Attorney W.T.Hutchings: The Cherokee Nation expects hereafter to introduce evidence to show that the judgment admitting his mother, Josephine Dawson, was fraudulently obtained.

M.D.Green, being first duly sworn, states that as stenographer to the commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 26 day of September-1900.

Commissioner.

D. 431

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on ....

....

by delivering a true copy thereof on the .... day of .... A. D. 190....

Given under my hand this .... day of .... A. D. 190....

....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the .... day of ...., 190....

....
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ....

....

on the .... day of .... A. D. 190....

....

Subscribed and sworn to before me this ....

....
Notary Public.

NOTICE!

IN THE MATTER OF the application of Charles E. Pierce for enrollment as Cherokee citizens:

Case No. D 431

To Charles E. Pierce Afton I.T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on March, 17, 1902. **at 8 o'clock A. M.** or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation.

CHEROKEE. D.431

Charles E Pierce

April 25, 1904. Cancelled and No 1 transferred to Cherokee 10774.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 384

Cher D 432

Cher D 432

D 432

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 28, 1900.

In the matter of the application of Robert L. McDonald for the enrollment of his two children, Garland and Mattie C. McDonald, as citizens of the Cherokee Nation; said McDonald being sworn by Commissioner T.B. Needles, testified as follows:

Q What is your name? A Robert L. McDonald.
Q What is your age? A 30 years.
Q Your post office address? A Adair.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A I married a woman under the Cherokee law and I have two children.
Q Whom do you apply for? A Two children.
Q What is the name of the children? A Garland.
Q How old is he? A Seven years old.
Q The name of the next child? Mattie C.
Q How old is she? A Four years and eight months.
Q Children alive and living with you at this time? A Yes, sir.
Q What is the name of their mother? A May E.
Q Is she living? A No, sir, she is dead.
Q You present a certificate from the Executive Department of the Cherokee Nation, dated Tahlequah, December 7, 1895, executed by Wm. W. Hayes, Executive Secretary under the seal of the Cherokee Nation, certifying that among others, one Mary E. Davis, was admitted to all the rights and privileges of a citizen by blood, on the 17th of December, 1887; was the Mary E. Davis the mother of these children for whom you apply for enrollment? A Yes, sir.
Q You apply for enrollment? A No, sir.
Q Is she living? A No, sir, dead.
Q These children were born after she was admitted? A Yes, sir.
Q These children been living in the Territory? A Yes, sir.
Q When was she married to McDonald? A 1892.

1896 enrollment; page 499, #1927, Mary E. McDonald, Delaware.
1896 enrollment; page 499, #1928, Garland McDonald, Delaware.
1896 enrollment; page 499, #1929 Mattie C. McDonald, Delaware.

Q Are you the father of these children? A Yes, sir.

Interrogatories by W. W. Hastings, Cherokee Representative:

Q When did you come to the Cherokee Nation? A 1894.
Q What time in 1894? A November.
Q You were married in Georgia? A Yes, sir.
Q You were never here before? A No, sir.
Q Neither was your wife? A No, sir.
Q How many of these children was born in Georgia? A Yes, one of them.
Q The other was born here? A Yes, sir.
Q You been here ever since you come in 1894? A Yes, sir.

Com'r Needles:--Robert L. McDonald applies for the enrollment of his two children, Garland and Mattie D McDonald, children of one Mary E. Davis, and he presents certificate of admission more particularly described in the testimony, admitting the said Mary E. Davis to citizenship on the 17th day of December, 1887. Said applicant avers that he was married to her in the year 1892, in the State of Georgia. Seven years having elapsed from the date of admission until the removal of the said Mary E. Davis, now McDonald, to the Indian Territory. The names of the children Garland and Mattie C. McDonald are found upon the census roll of 1896. Averment is made that they resided here since the year 1894, and the youngest, Mattie C., having been born in the Indian Territory; the other, Garland, having

Robert L. McDonald---2.

born in the State of ~~Txxxx~~ Georgia. They being duly identified according to the page and number of the rolls indicated in the testimony, but from the fact of their non-compliance with the order of Admission for seven years, final judgment as to the enrollment of said Garland and Mattie C. McDonald will be suspended, and their names will be placed upon a doubtful card.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that asstenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 28th day of September, 1900.

Commissioner.

"R"

Cherokee D 432.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Robert L. McDonald for the enrollment of his two children, GARLAND and MATTIE C. McDONALD as citizens of the Cherokee Nation.

Appearances:
Luman F. Parker, Jr., of Hutchings, West & Parker, of Vinita, I. T., attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: Robert McDonald and his attorneys Hutchings, Parker & West, of Vinita, I. T., were notified by registered letter February 11,1902, that his case would be taken up for final consideration by the Commission on the 28th day of February,1902; receipt has been acknowledged of the Commission' letter and the applicant this day, to-wit: on the 27th dayof February,1902, appears by his attorneys, Hutchings, Parker and West.

There is offered in evidence by the attorneys for the applicant a certifica te signed by W. H. Mayes, Assistant Executive Secretaryof the Cherokee Nation, certifying that on the 16th dayof December, 1887, by a decisionof the Commission on Citizenship Mary E. Davis was re-admitted to all the rights and privileges of Cherokee citizenship by blood. The same is filed herewith.

The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicants requests and will be granted ten days in which to file brief in this case, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

Commissioner.

MDG

[illegible] U. 435.

C. [illegible] McDonald, et al.

Board of [illegible].

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 11, 1902.

In the matter of the application of
Robert L. McDonald for the enrollment
of his two children, Garland and Mattie C. McDonald.
Cherokee D.432.

Brief on behalf of the Cherokee Nation.

The distinguished attorneY for these minor children gives considerable latitude to his imagination as to the testimonY in this case. Among other things in speaking with reference to the mother of these children he saYs she was a minor during the entire period of her residence in the state of Georgia, and there is not a line of testimonY that would indicate that this was a fact; he also avers in his brief that the parents of these children were united "in marriage according to the requirements of the Cherokee law", and there is no testimonY to that effect, but on the contrarY it is shown that theY were married in the state of Georgia in 1892; again he saYs in his brief "There is no contest in this case between applicants and the Cheroke Nation", indicating that the Cherokee Nation has agreed with him that theY should be enrolled, which I desire now to unqualifiedlY denY. He further asks that the Commission take"judicial cognizance"of the fact that at the time of the mother's re-admission she was of school age and going to school; whereas, as above observed, there is nothing to indicate her age in the first place, but on the other hand it is shown that she was married in 1892 and that she had given birth to one child before her removal to the Cherokee Nation from the state of Georgia, and I do not assume that the distinguished attorneY desires the Commission to take judicial cognizance of the fact that she was going to school during these last two important events.

The testimonY in this case shows that MarY E. Davis was the mother of these two children; that she was a resident of the state of Georgia; that she was admitted to citizenship in the Cherokee Nation in 1887; but that for seven Years she continued to reside in the state of Georgia, where she married in 1892; her husband being a citizen of the state of Georgia, where her first child was born; and that she removed to the Cherokee Nation for the fir st time in the Year 1894.

As has been argued in a number of cases the residence and domicil of the husband and father is that of the wife and child. And in as much as the father of these children was a citizen and resident of the state of Georgia, and where the elder of these two children was born, at the time of his birth, he being a legitimate child, he took his residence and citizenship of his father, as did the child's mother, and theY all become citizens of the state of Georgia, and we contend that it was necessarY that theY be re-admitted to citizenship upon their removal to the Cherokee Nation in 1894. If these people had been former residents of the Cherokee Nation and removed from without the limits of the Cherokee Nation to the state of Georgia and remainded there for a period of seven Years, exercising the rights of citizenship during this period without anY effects in the Cherokee Nation, theY would have forfeited their rights to citizenship in the Cherokee Nation, and it would have been necessarY for them to have been re-admitted upon their return to the Cherokee Nation. And this being true we contend that it was necessarY for these applicants to have come to the Cherokee Nation within a reasonable time after theYs were admitted bY the court; and failing to do this, and having resided there for a period of seven Years, married there and one child being born there, we submit that the mother became a citizen of the state of Georgia, and was not entitled to be enrolled as a citizen of the Cherokee Nation upon her removal here in the Year 1894 without having been first readmitted.

Respectfully submitted,

AttorneY for the Cherokee Nation.

W H M.

D 432

In the Matter of
the application of
Cleveland and
Mattie E. McDonald
Memo

Memo. Brief [illegible]

Hutchins Parker & West
Attys

Cherokee D. 483.
In the Matter of the Application of

Garland and

Mattie C. McDonald.

To the Honorable Commission to the Five Civilized Tribes.

This and No. D. 493 are identical. The mother of these applicants and the applicant there were brother and sister.

There is no contest in this case between the applicants and the Cherokee Nation. The Honorable Commission found they had been duly enrolled by the tribal authorities and that they had permanently located in the Cherokee Nation prior to the Curtis Act, one child in 1894 and the other having been born here, and that their mother, by reason of her Cherokee blood had been lawfully admitted to citizenship by the tribal authorities and yet the Commission postponed enrolling them until it might determin the effect upon them of the failure of their mother to remove to the Cherokee Nation until after the lapse of seven years, although she was a minor. during the entire period

The proof shows, and it is not disputed, that these two children were born in lawful wedlock to Robert L. M. McDonald and Mary E. Davis they having been united in marriage according to the requirements of the Cherokee law.

It will be observed Mary E. Davis, the mother, comes strictly within the exception to the act of December 4, 1894, of the Cherokee Council. By the certificate of admission it appears that she was duly readmitted to citizenship in the Cherokee Nation on the 16 day of December 1887, under the provisions of the Act of December 8, 1886, (before it was amended) that she was but a child when so readmitted and in November 1894 removed to the Cherokee Nation with the husband and (in fact) one of the applicant here. This removal on her part was previous even to the enactment of the following Act of the Cherokee Council: "Be it enacted by the Cherokee Council: That all persons who have been or may hereinafter be readmitted to citizenship in the Cherokee Nation, are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or, from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission; Provided, that nothing in this Act shall bar miners and orphans." Approved December 4, 1894.

Hence she is clearly within its provisions and from said date 1894, to her death she continued to live and make her home and since her death, the applicants here have continued to reside in the Cherokee NAxtion with their grandparents, recognized citizens.

The objection was that the mother did not remove to the Cherokee Nation for seven years after her readmission. That she forfieted no right thereby is cleared now. She came previous to the enactment of the law which gave all persons theretofore admitted six months after its passage to remove to the Cherokee Natin The Commission should, it seems to us readily account for her absence from the Cherokee Nation at the time, if it were really important. It may certainly take judicial cognizance of the fact that the applicant at the time of his readmission was of school age and was where she should have been, going to school with her brother. As we have said the applicant can have no legal objection urged against them and therefore the question as to what the mother was doing during the years of childhood is an unimportant one, and mention is only made of it to meet the objection, which [illegible] was not a legal or serious one.

Aside from all this these applicants come clearly within the purview of first paragraph of Sec. 22 of the Curtis Act in our judgment, but under either or both, there can be no reasonable objection urged to their enrollment.

Respectfully submitted.

ATTORNEY FOR APPLICANT.

Cherokee D 432

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

9761

lcR

In the matter of the application for the enrollment of Garland and Mattie C. McDonald, as citizens by blood of the Cherokee Nation.

DECISION.

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The record in this case shows that on September 25, 1900, Robert L. McDonald appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his two minor children, Garland and Mattie C. McDonald, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 27, 1902.

It appears from the evidence that Garland and Mattie C. McDonald are the minor children of Mary E. McDonald, who was re-admitted to citizenship in the Cherokee Nation, on December 17, 1887, by the duly constituted authorities of said Nation, under the name of Mary E. Davis, as shown by the records of the Cherokee Nation in possession of the Commission. The said Garland and Mattie C. McDonald are identified on the 1896 Census roll of the Cherokee Nation as citizens by blood.

The evidence further shows that Garland McDonald was brought to the Cherokee Nation in the year 1894 by his parents, who removed here at that time, and that he has continuously resided in the Cherokee Nation since 1894; that Mattie C. McDonald was born in said Nation, and has resided continuously therein all her life.

It is, therefore, the opinion of this Commission that Garland McDonald and Mattie C. McDonald should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

NED) Tams Bixby
Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this NOV 12 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

[illegible]

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 432.

Muskogee, Indian Territory, November 17, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 12, 1902, granting the application of Robert L. McDonald for the enrollment of his two minor children, Garland and Mattie C. McDonald, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.
~~Acting Chairman.~~

Enclosure H. No. 12.

D 4

IN THE MATTER OF THE APPLICATION OF

Garland McDonald et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Original testimony Sept 26, 1900

Memo of application

Deft [illegible] testimony

Notice of final jurisdiction 1/27/02

Certified decision [illegible]

Brief of [illegible] applicant

Supplemental proceedings and order

Closing testimony Feb 27, 1907

Cher D 433

Cher D 433

D433

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T, SEPTEMBER 25, 1900.

In the matter of the application of Daniel B. Davis for enrollment as a citizen of the Cherokee Nation; said Davis being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Daniel B. Davis
Q What is your age? A 26.
Q Your post office? A Adair.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Your not.
Q Your name upon the authenticated roll of 1880? A No, sir, it is on the roll of 1896.
Q Applicant presents a certificate of admission, issued from the Executive Department of the Cherokee Nation, December 7, 1895; said certificate being signed by W. H. Mayes, Asst. Executive Secretary, under the seal of the Cherokee Nation; certifying that one Daniel B. Davis was admitted to the rights of citizenship by blood to the Cherokee Nation, on the 16th day of December, 1887; are you the identical Daniel B. Davis, mentioned in the certificate you present?
Q Yes, sir.
Q For whom do you apply for enrollment? A Just myself.
Q When did you remove to the Indian Territory? A 1894.
Q You were admitted in 1887? A Yes, sir.

1896 enrollment; page 404, #1008, Daniel Benjamin David, Delaware.

Com'r Needles:--The name of Daniel B. Davis appears upon the census roll of 1896, and he presents certificate of Admission, more fully described in the testimony. He is fully identified, but it appearing from the testimony that he did not remove to the Indian Territory until after a lapse of seven years after his admission, final judgment as to his application for enrollment as a Cherokee citizen by blood, will be suspended and his name will be placed upon a doubtful card.

---oooOOOooo---

J. O. Rosser, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is ~~ma~~ a true and complete transcript of his stenographic notes thereof.

J O Rosser

Subscribed and sworn to before me this 28th day of September, 1900.

Commissioner.

"R"

Cherokee D 433

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Daniel B. Davis for the enrollment of himself as a Cherokee citizen.

Appearances:
Luman F. Parker, Jr., of Hutchings, West and Parker,
Vinita, I. T., attorneys for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and his attorneys were notified by registered letter February11,1902, that this case would be taken up by the Commission for final consideration on the 27th day of February,1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day appears by his attorneys Hutchings, Parker & West, of Vinita,I.T.

The following certificate has been filed by the attorney for the applicant in the case of Garland McDonald et al, D432:

"Executive Department, Cherokee Nation, Tahlequah, Ind. Ter., December 7th,1895.

To whom it may concern:

I, W.H.Mayes, assistant Executive Secretary do hereby certify that on the 16th day of December, 1887, by a decision of the Commission on Citizenship J.W. Davis, Mary E, Daniel B., Dock, Susan, Maud, Berrilla E., Amanda, Florence and Joseph J. Davis were re-admitted to all the rights and privileges of Cherokee citizenship.

In testimony whereof I hereunto set my hand and affix the seal of the Cherokee Nation on the date above written.

W.H.Mayes, Assistant Executive
(Seal.)" Secretary. "

The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record. The attorneys for the applicant request and will be granted ten days in which to file brief in this case, one copy with the Commission and one copy with the representative of the Cherokee Nation.

Commissioner.

MDG

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes.

Muskogee, I. T. May, 9, 1902.

In the matter of the application of
Daniel B. Davis for enrollment as a
citizen of the Cherokee Nation.

Cherokee D. 433.

BRIEF ON THE PART OF THE CHEROKEE NATION.

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The testimony in this case shows that the applicant was admitted to citizenship in the Cherokee Nation in 1887, when he was a resident of the state of Georgia, and that he removed to the Cherokee Nation in the year 1892, and that between 1887, and 1892 he continued a resident of the state of Georgia. The question for the Commission to consider is: what affect his residense in the state of Georgia fo a period of five years had upon his previous admission to citizenship in 1887? We particularly desire to call attention to that part of the applicant's brief wherein it is stated that the attorney for the Cherokee Nation does not contest the right of this applicant to be enrolled, and that in a similar case it was said that applicants were enrolled. This wex desire to deny emphatically. The responsibility for making this roll is upon the Commission, and we have never assumed to take this responsibility away, and neither did we ever make such an admission as is alleged we have made in applicant's brief.

Respectfully submitted,

WWHastings JCS

Attorney for the Cherokee Nation.

A. G. N.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 14 1902
ACTING CHAIRMAN

Chero. D-433.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., June 9, 1902.

In the matter of the application of Daniel B. Davis for enrollment of himself as a citizen of the Cherokee Nation.

Applicant appears by P. G. West, representing L. F. Parker Jr., Vinita, Indian Territory; Cherokee Nation by W. W. Hastings.

Daniel B. Davis, being sworn and examined testified as follows:

P. G. West: Your name is Daniel B. Davis? A Yes sir.
Q You are the same man that heretofore made application for enrollment as a citizen of the Cherokee Nation and was notified by the Commission that they desired further evidence in regard to your residence? A Yes sir.
Q Where do you live now? A Live three and a half miles east of Adair, on Rock Creek.
Q Where were you born? A Born in Georgia.
Q What year and month? A In '74, January 2nd.
Q When did you first come to the Indian Territory? A I first come in 1892.
Q What time of the year do you remember? A It was in the spring of the year, last of March I believe or first of April.
Q Where did you go? A I was at Nowata a while and Vinita a while.
Q With whom did you make your home? A I stayed at the ranch out west of the Verdigris on J. G. Hall's.
Q Did you have a place that you called home here or anywhere else? A My father bought a place out southwest of Nowata. He didn't live there, another family lived there.
Q Your father owned a place in the Cherokee Nation at that time? A He bought a place.
Q Was your father living here at that time? A Yes, he was here then, the rest of the children wasn't here.
Q Where were the rest of the children? A They were in Georgia. He was fixing a home for them to move to; he bought that place and sold that place and when he moved he moved to Vinita. He didn't go to the other place.
Q What were the children doing back in Georgia? A They were going to school; they were all small.
Q Have you stayed in the Indian Territory continuously since that time or have you gone back since '92 for any space of time? A I went back to Georgia and helped bring the rest of them out here.
Q When did you go back to Georgia? A Went back in '93.
Q How long did you stay there? A I come back in the spring of '95. I was there a little over a year.
Q You went back in the fall of '93 and came back in the spring of '95? A Yes sir.
Q You remember what month you came back in? A Yes sir. I come back here on the 28th day of March, 1895.
Q When you went back to Georgia after the balance of your family, your brothers and sisters, did you have any intention of remaining there permanently? A No sir, I didn't have any intention to stay there; I wanted to come back sooner than I did.
Q Have you resided in the Indian Territory continuously since March, 1895? A Yes sir, I haven't been out but once and then I went to

Texas one evening and come back the next night. That is the only time I have been out of the territory since '95.
Q Have you been in the Cherokee Nation ever since that time? A Yes sir, in the Cherokee Nation ever since that time.
Q What place have you regarded as your home during that time? A Well the last two years -----
Q I am not talking about the identical place, whether this country or some other country? A This country is the only place I call home.
Q What was your intention when you first came out here in '92? A I come here to stay.
Q You weren't of age at that time? A No sir, I wasn't of age then. I was 18 I guess then.
Q Have you married since you came back to the Indian Territory? A Yes sir.
Q When were you married? A Married the 27th day of May, 1901.
Q What was your wife's name? A Pearl O. Jones.
Q Was she an Indian girl or white? A She is a white woman.
Q Is your wife still living? A Yes sir.
Q Do you still live together as husband and wife? A Yes sir.
Q Have you had any children born to you as the issue of that marriage? A Yes, I have one.
Q What is the name of that child? A Duall Albert.
Q Is it a boy or a girl? A It is a boy.
Q When was that child born? A The 14th of February, 1902.
Q Now since you became of age have you ever lived anywhere else than in the Cherokee Nation? A No sir.
Q That is to say you came here about two months after you got to be 21? A I came here just after I was of age.
Q Did you ever vote in the State of Georgia or any other state outside of the Indian Territory? A No sir, I never did vote.
Q Did you ever vote in the Cherokee Nation? A Yes sir.
Q In any of the elections held by that nation? A Yes sir.
Q Did you vote in all of them or some of them? A Just some of them. I was working on a ranch; when I was in town I voted.
Q When you were present when an election was going on you would vote? A Yes sir.
W. W. Hastings: Who did you vote for, in what election? A I voted for the treaty once.
Q That is the only vote you ever cast? A Then I voted for the Chief once.
Q When was that? A It was when Mayes and that fellow running against Mayes.
Q When did your mother come to the Cherokee Nation? A In '95, she come with he rest of us Cherokees.
Q What time did you come in '93? A In the spring.
Q You had no home here at that time? A No sir.
Q You just stayed from place to place? A Yes, just had as much home one place as another.
Q Your mother and your home was still back in Georgia? A Yes sir, they were back there.
Q You had some younger brothers and sisters back there with your mother? A Yes sir.
Q They didn't come out here at that time until '93? A No sir.
Q You came here the last time in March of '95? A Yes sir.
Q How long did you say you remained here in '92? A I come out here in '92 and went back in the fall of '93.
Q What did you do while you were here? A Not much of anything, just worked around a little in the road here a little bit.
Q What did you do when you went back in the fall of '93? A I didn't do anything much; I helped dispose of some stuff that my mother had back there.
Q Did she have a home place? A Yes sir, she had a place back there. I helped her dispose of her place; she had some cattle and hogs and corn.
Q Did she own it up until '95? A Yes sir, she owns it now.
Q Has your mother remained here continuously since '95 all the time?

A She went back on a visit; she was gone about five months.
Q What is your father's name? A Joe W. Davis.
Q Is your father living? A Yes sir.
Q Where does he live? A He lives on Rock Creek.
Q Has he lived here continuously since '95? A Yes sir.
Q All the time? A Yes sir, he never has been back; he went back to Georgia when my mother went back on a visit; he went back after her; he was gone about ten days when he went back after her; that is the only time I reckon he has been out since he come here.
Q The reason you never voted in Georgia was because you weren't old enough? A No sir.
Q Your father voted back there until '95 until he came out here?
A Yes, I guess he was.
Q Did your father remain here when he came in '92 or did he go back when you went back? A He went back.
Q Did he come back in '95? A Yes sir.
Q Now up until '95 when your father was out there he was regarded as a citizian just the same as anybody else in the state of Georgia until he come here in '95, there was no difference? A No, I guess not.
Q He wasn't refused to vote until he come here in '95 was he? A No, I guess not; I don't know whether they would let him vote after he first came in '92; I don't think he tried to vote after he come here in '92.
Q Do you know? A I don't know positively, but I am pretty sure he never voted after he first came here. I don't think he tried to vote after '92.
Q Do you know about that? A Yes, I am pretty sure he never voted after '92.
Q Are you willing to swear that he never voted after '92 in the State of Georgia? A Yes, I am.
Q What did your father do out there in the year of '94? A He farmed a little.
Q On his own farm? A Yes sir.
Q Did you help him? A I helped him a little, yes sir. We didn't have very much to do.
Q You didn't vote here in '93 and '4 when you were here? A No, I wasn't in the election at all.

Applicant will be required to furnish the Commission with evidence of his marriage to his present wife.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 12th day of June, 1902.

Notary Public.

D 433

In the Matter of the
Application of
Daniel D. Davies

Memo in behalf
of Applicant

Notice

What Parker says
of pleading

In the Matter of the Application of
Daniel N. Davis.

To the Honorable Commission to the Five Civilized Tri bes.

This and No. D. 452, are identical . The mother of the children then applied for is a sister of this applicant.

It is our understanding the representatives of the Cherokee Nation do not contest the right of this applicant to be enrolled and as stated by one of them(Mr. Hastings) when a similar case was closed, if the application was now made for enrollment they would be placed upon a straight card by the Commission.

It will be observed this young man comes strictly within the exception to the Act of December 4, I894, and Section 22 of the Curtis Act. By the certificate of admission it appears that he was duly readmitted to citizenship in the Cherokee Nation on the I6th day of December I887 under the provisions of the Act of December 8, I886 (berfore it was amended) that he was thirteen years of age when so re-admitted. In the year I892, then I8 years of age, he removed to the Cherokee Nation, whence his parents had succeeded him, and this was over two years previous to the following Act of the Cherokee National Council:

"Be it enacted by the National Council: That all persons who have been or may hereinafter be re-admitted to citizenship in the Cherokee Nation, are hereby requirred to permanently locate within the limits of the Cherokee Nation within six months from the passage of this Act, or, from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission; provided that nothing in this Act shall bar minors and orphans. Approved Decem ber 4, I894."

Although still a minor he had permanently located himself in the Cherokee Nation, and the saving clause was unnecessary to protect his rights, and he has resided in the Cherokee Nation ever since, working on his place and making it his home, the home of his people and the only home he has ever known since becomming competent to select or have one of his own.

The objection to his admission was that he did not remove to the Indian Territory untill after the lapse of seven years from his admission. The record shows, and it is the truth, only five years elapsed, and the number stated was simply a miscalculation of the Honorable Commissioner. The Commission should, it seems to us, readily account for this absence from the Cherokee Nation if it were really important. It may certainly take judicial cognisance of the fact that the applicant at the time of his readmission had attained the school age (13 years) and probably was where he should have been during the succeeding five, in school. As we have said before, the applicant being clearly within the law the fact as to what he was doing during these years of childhood is unimportant, but mention is made of it herento meet the objection, which was not a legal or serious one.

Again the applicant comes clearly within Sec. 21 of the Curtis Act. " Thatin making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorised and directed to take the roll of Cherokee citizens of eighteen hundred and eighty x x x x x and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon, and all persons who have been enrolled by the tribal authorities, and who were minors when their parents were so admitted, and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such inter-married white persons as may be entitled to citizenship under Cherokee laws."

Not only are all these requirements present but the applicant was himself admitted with his parents and therefore has a legal status coextensive and of equal force with theirs.

We cannot conceive of any theory by which the right of the applicant could be denied, and hence deem this brief statement of his case sufficient in itself to demonstrate the fact.

Most respectfully submitted.

Attorney For Applicant.

Cherokee D 435

160

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Daniel B. Davis and his minor child, Duell A. Davis, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

---oOo---

The record in this case shows that on September 26, 1900, Daniel B. Davis appeared before the Commission at Vinita, Indian Territory, and made personal application for enrollment as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 27, 1902 and June 9, 1902. On June 12, 1902 there was filed with the Commission a birth affidavit, duly executed by Pearl O. Davis on June 9, 1902, from which it appears that Duell A. Davis was born on February 14, 1902; that he is the child of Daniel B., and Pearl O. Davis, and that he was living at the date of the execution of the affidavit.

The evidence shows that the said Daniel B. Davis was admitted to citizenship in the Cherokee Nation, on December 16, 1887, by the duly constituted authorities of said Nation; that he was thirteen years of age at the date of said admission; that he was lawfully married on May 27, 1901, to Pearl Jones, and that the minor child, Duell A. Davis, is the issue of that marriage. The said Daniel B. Davis is identified on the Cherokee Census roll of 1896.

The evidence further shows that the said Daniel B. Davis came to the Cherokee Nation in 1892 and remained about one year; that he then went to the State of Georgia, and returned to the Cherokee Nation on March 28, 1898, and has continuously resided in said Nation since the last mentioned date. It is considered that the residence of the minor child, Duell A. Davis, has been that of his father since birth.

It is, therefore, the opinion of this Commission that Daniel B. Davis and Duell A. Davis should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this NOV 12 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 433.

Muskogee, Indian Territory, November 17, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 12, 1902, granting the application of Daniel B. Davis for the enrollment of himself and his minor child, Duell A. Davis, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

C. R. Breckinridge
Commissioner in Charge.
~~Acting Chairman.~~

Enclosure H. No. 9.

IN THE MATTER OF THE APPLICATION

Daniel B. Davis

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Original testimony Sept 26, 1900
Memo. of application
Request for testimony
D Notice of final consideration 2/25/02
E Applicant's Brief

Supplemental proceedings and order
Closing testimony, Feb. 27, 1902

Decision

Cher D 434

Cher D 434

ily here until May 17th, 1896? A No, sir.

Q The time that she was here for three months was simply on a visit to her mother, wasn't it? A She came out with her mother--her mother and sister came with her.

Q And she staid with them three months? A Yes, sir; about three months.

Q You didn't come here ~~xxxxx~~ at all then? A No, sir.

Q You were attending to your business and things back in Tennessee? A Yes, sir.

Q The family was not removed at that time? A No, sir.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT [illegible] 1900

THE COMMISSION: The applicant applies for the enrollment of himself, his wife and seven children. He presents official evidence of the admission of his wife to Cherokee citizenship in 1882, as stated in the testimony. As to their movements down to May 17th 1896, at which time, and for the first time, they [illegible] all moved to the Cherokee Nation, reference is made to the testimony. He states that his wife has lived in the Cherokee Nation ever since May 17th, 1896. She is not identified on the roll of 1896, but the applicant states that he had her and the children enrolled, and further search may reveal their identity. At present the application for the enrollment of his wife [illegible] be placed upon a doubtful card. Along with her there [illegible] identified upon the official evidence of admission, the first four of their children enumerated in the testimony. They will at present be listed with their mother upon a doubtful card. The next children, Marguerite J., and Elizabeth L., should be upon the roll of 1896, but are not found there. They, at least, were born since the admission of their mother in 1882, and they will be listed upon a doubtful card. [illegible] a proper [illegible] of birth of the youngest child, Tulla, is supplied the commission, that child also will be listed upon a doubtful card.

As to the applicant himself, he is shown to have been married to his wife in accordance with the Cherokee law, having previously been married in accordance with the United States law, on November [illegible], 1895. He states that he and his wife have lived together in the Cherokee Nation ever since that day. He is identified on the roll of 1896. He is a white man. He claims for ~~xxxx~~ his wife is one-sixteenth of Cherokee blood. He will be listed also upon a doubtful card.

The final decision of the Commission will be made known to the applicant at his post office address.

Attention is called, in connection with this case, to the Cherokee Act, approved December 4th, 1894, page 128 of the report of this Commission for the year 1899, and to the points brought

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF CHARLES L. McCLURE FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said Charles L. McClure being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name please. A Charles L. McClure.
Q How old are you? A I am forty-six.
Q What is your post office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it now you wish to habe put on the roal? A Myself, wife and children.
Q How many children have you? A Seven.
Q Do you apply for yourself as a Cherokee by blood? A No, sir.
Q Adopted? A Yes, sir.
Q Is your wife a Cherohee? A Yes, sir.
Q What proportion of Cherokee blood do you claim for her? A About one-sixttenth, I think.
Q Have you your marriage license and certificate? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated Cherokee marriage license issued by the Clerk of Cooweescoowee District, authorizing his marriage to his wife, whose name is given as Fannie F. Williams, date of the license November 29th, 1895, and he presents with this a marriage certificate showing that, in accordace with the testimony he has givenhe was married to his wife on the 29th of November by the Rev. Ned Forest. And the endorsement of the Clerk of the District shows that the license and certificate are filed and recorded on the same page and book of the Records of the District. These papers are filedherewith.

Q Now, have you and your wife lived together ever since your marriage in accordance with the Cherokee Law in November 1895? A Yes, sir.
Q You have lived together all the time in the Cherokee Nation since you were married under this license and certificate? A Yes, sir.
Q How old is your wife at this time? A She is forty.
Q Is she a native of the Cherokee Nation? A No, sir.

THE COMMISSIONER: The applicant presents a duly authendicated certificate of admission certified to by W. H. Mayes, assistant executive secretary of the Cherokee Nation, under the seal of his office, showing that on December 2nd, 1892, certain persons were admitted to citizenship by the National Council under an act approved December 1st, 1892, and among them appears the name of Fannie McClure. That is your wife's name, is it? A Yes, sir.

THE COMMISSIONER: This is recognized as official evidence of the facts stated. This is returned to the applicant.

Q Now, has your wife lived in the Cherokee Nation ever since her admission in 1892? A No, sir; she has lived here excepting one year and a half.

Q What year was that? A She came here in 1893.
Q And she has lived here ever since? A No, sir.
Q When did she come here? A About the middle of 1893 as near as I can get at it.
Q Well, then, how long did she stay here? A She staid here about three months, I think.
Q Then what did she do? A She moved out.
Q Where did she go? A She went to Tennessee.
Q How long did she stay there? A She staid a year and a half.
Q Well, did she come back here? A Yes, sir.
Q Then what did she do? A She has been here ever since.
Q She has been here then ever since 1895? A Yes, sir; she came back in 1895.
Q So she first came and staid three months, and then absented herself for a year and a half, and then came back in 1895? A Yes, sir.
Q Whattime was it she came back? A The 17th of May, 1895 we arrived here, somewhere along there.
Q Now, give me the names of your children, please. A Slater L. McClure.
Q How old is that child? A Eighteen years old.
Q The next child? A Roy M. McClure.
Q How old is he? A Sixteen.
Q The next child. A William L.
Q How old is he? A Fourteen.
Q The next child? A Hugh C.
Q How old is he? A Twelve.
Q The next child. A Marguerite Jane.
Q How old is she? A ~~Eighteen years old~~.Eight years old.
Q The next child? A Elizabeth L.
Q How old is that child? A. Five years old.
Q The next child? A Eulala.
Q How old is she? A She is two years old.
Q These children are all living now are they? A Yes, sir.
Q Are any of these children on a certificate of admission with your wife? A Yes, sir.
Q There appears in the certificate you have presented the names of certain children of Fannie McClure's: Slater--is that your eldest child? A Yes, sir.
Q Roy? A Yes, sir.
Q William and Hugh? A Yes, sir.
THE COMMISSIONER: They are all identified on the official document mentioned.
Q Were you in Cooweescoowee in 1896? A Yes, sir.
1896 Roll, page 316, No. 722, Charles McClure, Cooweescoowee District.

Q You are sure you had your wife and children enrolled in 1896? A Yes, sir.
Examination by Mr. Hutchings, counsel for Cherokee Nation)
Question. You were married to your wife prior to her readmission to Cherokee citizenship, were you not? A No, sir; I was married to her after she was admitted.
Q Well, you were married to her before, too. A Yes, sir.
Q In whatstate did that take place? A Tennessee.
Q You were a citizen of the State of Tennessee then, were you? A Yes, sir.
Q When your wife was readmitted you didn't remove your fam-

ily here until May 17th, 1895? A No, sir.

Q The time that she was here for three months was simply on a visit to her mother, wasn't it? A She came out with her mother--her mother and sister came with her.

Q And she staid with them three months? A Yes, sir; about three months.

Q You didn't come here ~~xxxxx~~ at all then? A No, sir.

Q You were attending to your business and things back in Tennessee? A Yes, sir.

Q The family was not removed at that time? A No, sir.

THE COMMISSIONER: The applicant applies for the enrollment of himself, his wife and seven children. He presents official evidence of the admission of his wife to Cherokee citizenship in 1892, as stated in the testimony. As to their movements down to May 17th 1895, at which time, and for the first time, they seem to have all moved to the Cherokee Nation, reference is made in the testimony. He states that his wife has lived in the Cherokee Nation ever since May 17th, 1895. She is not identified on the roll of 1896, but the applicant states that he had her and the children enrolled, and further search may reveal their identify. At present the application for the enrollment of his wife will be placed upon a doubtful card. Along with her there is identified upon the official evidence of admission, the first four of their children enumerated in the testimony. They will at present be listed with their mother upon a doubtful card. The next two children, Marguerite J., and Elizabeth L., should be upon the roll of 1896, but are not found there. They, at least, were born since the admission of their mother in 1892, and they will be listed upon a doubtful card. When a proper certificate of birth of the youngest child, Zulla, is supplied the Commission, that child also will be listed upon a doubtful card.

As to the applicant himself, he is shown to have been married to his wife in accordance with the Cherokee law, having previously been married in accordance with the United States Law, on November 29th, 1895. He states that he and his wife have lived together in the Cherokee Nation ever since that day. He is identified on the roll of 1896. He is a white man. He claims for ~~xxxx~~ his wife is one-sixteenth of Cherokee blood. He will be listed also upon a doubtful card.

The final decision of the Commission will be made known to the applicant at his post office address.

Attention is called, in connection with this case, to the Cherokee Act, approved December 4th, 1894, page 128 of the report of this Commission for the year 1899, and to the points brought out by the representative present of the Cherokee Nation and set forth in the testimony.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 10th day of October A. D. 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 23 1900
ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 5th, 1900.

IN THE MATTER OF THE APPLICATION OF CHARLES L. McCLURE FOR THE ENROLLMENT OF HIMSELF, WIFE AND CHILDREN AS CHEROKEE CITIZENS.--SUPPLEMENTAL PROCEEDINGS.

JENNIE WILLIAMS, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name, please? A Jennie Williams.
Q What is your age? A Fifty-eight.
Q What is your post office? A Vinita.

EXAMINATION BY MR. W. T. HUTCHINGS, Representative of Cherokee Nation.

Q Mr. Charles L. McClure's wife is your daughter? A Yes, sir.
Q And was admitted to Citizenship by the Citizenship commission?
A Yes, sir.
Q Do you remember exactly what date she removed to the Cherokee Nation permanently? A Yes, sir; in May, 1893.
Q In May 1893? A Yes, sir; the 15th of May, 1893.
Q How long was it after thatbefore her husband came? A She came in May and he came in August, as well, as I remember.

Q Didn't Mrs. McClure return to her husband's home after she came here in May and then come here when all of the family came in August? A She came here and returned that year and came back the next May instead.
Q When she first removed as you state, did she bring any of the children to stay permanently, or any of their things or household goods
A Yes, sir. They didn't bring all the children, but she had part of them the first time.
Q The other children remained back with Mr. McClure in the state?
A Yes, sir; until she came the second time.

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THE UNDERSIGNED, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the supplemental proceedings had at the time above mentioned in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 22nd day of October 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 19 1900
ACTING CHAIRMAN.

[illegible]

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I.T., October 17, 1900.

D. [illegible].

In the matter of the application of Charles L. McClure, et al.

Commissioner Breckinridge: It is found upon further investigation that the supposed enrollment of Charles L. McClure, on the roll of 1896, does not belong to him, and therefore it is ordered that his enrollment as claimed in his application and as indicated upon his card for that year, be cancelled, that enrollment being properly indicated in a subsequent application, namelythe application of Charles O. McClure, 30 years of age, for the enrollment of himself, wife and children, just taken.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 18th of October, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., November 20, 1900.

Card D. 434.

In the matter of the application of Charles L. McClure for the enrollment of himself, wife and children as Cherokees.

Additional testimony.

Charles L. McClure, being duly sworn and examined by the Commission, testified as follows:

Q What is your name? A Charles L. McClure.

Q What is your age? A 48.

Q What is your post office address? A Vinita.

Q You made application to the Commission on the 26th of September, 1900, for the enrollment of yourself, wife and children as Cherokee citizens, did you? A Yes, my wife and children.

Q You were placed upon a doubtful card for the reason that the Commission was at that time unable to identify your wife or any of your children upon the census roll of 1896. You now desire to being such testimony before the Commission by which you can prove your wife and children were enrolled in 1896? A Yes, sir.

Q Where are they enrolled in 1896? A Under the name of McClure.

Q What was your wife's name before you married her? A Williams.

(The applicant's wife and children are not identified upon the census roll of 1896 under the name of McClure.)

Q Is it possible they could have been enrolled under any other name in 1896? A I just want to prove by this gentleman herethat I was there and enrolled and a man by the name ofLiman was in the house at the time I enrolled. It is possible he enrolled just after me or just before; he was in the house at the time I was enrolled.

(1896 roll, page 199, No. 2831, Fannie M. Liman, Cooweescoowee district. ~~XXXXXXXXX~~ note on roll; wife of Charles Liman. 1896 roll, page 313, No. 617, Charles Liman, Cooweescoowee district, intermarriage white, 43 years old. 1896 roll, page 199, No. 2832, Slater L. Liman, Cooweescoowee district. 1896 roll, page 199, No. 2833, Roy M. Liman, Cooweescoowee district. 1896 roll, page 199, No. 2834, William L. Liman, Cooweescoowee district. 1896 roll, page 199, No. 2835, Hugh C. Liman, Cooweescoowee district. 1896 roll, page 199, No. 2836, Margeurite J. Liman, Cooweescoowee district. 1896 roll page 199, No. 2837, Elizabeth L. Liman, Cooweescoowee district.)

Q How does it happen, or how do you explain the fact that your name and the names of the various members of your family were placed upon the census roll of 1896 under the name of Liman? A I can't explain it at all, I have no idea how it happened; I just know that I appeared in person, called the names out from a piece of paper I had them down on all the way through, and I supposedthe gentleman put them down; I couldn't see what he was writing, my name or somebody else's name.

J. L. Armour, appearing before the Commission, and being duly sworn and examined, testified as follows:

Q What is your name? A J. L. Armour.

Q What is your age? A I am 37.

Q What is your post office address? A Miles.

Q Are you acquainted with Charles L. McClure here? A Yes, sir.

Q Are you acquainted with his wife, Fannie? A Yes sir.

Q How long have you knwon her? A Ever since I was 8 years old.

Q Do you know under what name he was enrolled in 1896, he and his family? A No, sir, I don't know anything; I was there when he was enrolled, I know what name hegave in, but what was written I don't know.

Q You know, of your own knowledge he made application for enrollment to the tribal authorities for enrollment of himself and family?
A Yes, sir, I was right there.

Q Do you know what action was taken? A They enrolled him without any doubt in the world; that is, they wrote names down, they wrote the names down each time he gave the name of one of his family. I was standing back there and of course I couldn't see whether they wrote Liman of McClure.

Q They didn't question his right to enrollment at that time?
A No, sir, there was no question as to his citizenship.

Q Did he state at the time his name was McClure? A Yes, sir.
Q You heard that? A Yes, sir.
Q Do you know of your own knowledge whether they could have been enrolled under any other name than McClure? A I don't see how it could have been possible, only through mistake.
Q Do you know the name of the man that applied to the Tribal authorities just before Mr. McClure did? A Yes, sir, I was acquainted with Mr. Johnson Liman, he lives at Vinita now, he was living about two miles in the country then, and I had just got acquainted with him, and he was in there at the time and he enrolled.
Q Had he made application for enrollment just before Mr. McClure had? A It seems to me just before or just after, all I know is he was there at the time we were there to enroll, and I think enrolled just ahead of us; I can't be positive about that part of it.
Mr. Cale Starr, representative of the Cherokee Nation: Do you know exactly the date that Mrs. McClure removed to and permanently located in the Cherokee Nation? A Well sir, I can tell you the date that she came here, whether you call it permanently locating or not I can't say. In 1893, the 23rd day of May, she came to Vinita and she stayed in Vinita and in this Cherokee Nation about three or four months, selecting a location; I know she left in the fall and went back to Tennessee, and the 17th day of May, 1895, they moved to the Cherokee Nation and have been here since; they brought their effects and come to Vinita, the 17th day of May, 1895.
Q Have they been living in Vinita continuously since the ~~day~~ 17 of May, 1895? A Yes, sir, never have been out I don't guess; she bought some property at Nowata when she was here in 1893, she contemplated locating at Nowata and she bought two lots at Nowata at that time.
Q Has she owned these lots since that time? A Yes, sir.
Q Does she own them now? A Owns them now I suppose.
Q How do you know that she permanently located in the Cherokee Nation on the 17th of May, 1895? A Well sir, they moved there, and I was in business, and I had reference to them very often; I have heard the day spoken of along from time to time up to now.
Q Do you know of your own personal knowledge that they have arrived in Vinita on that date? A Yes, sir, I do.
Q By what memorandum or record do you fix that date so exactly?
A I helped make a garden for them, and I bought a bill of garden seed and planted a garden because they were coming, I had a house rented for them, I was looking after everything, and I know just exactly what day they came there from my personal knowledge.
Q Do you know it from any record or just personally from memory?
A I did know it from a record, the date that I bought those garden seed and planted them, but I can't produce it just now.
Q Do you swear positively that Charles L. McClure and family have removed to and permanently located in the Cherokee Nation before June, 1895? A Yes, sir.

The Commission: It appears from the testimony taken this day that Charles L. McClure applied to the Cherokee Tribal authorities in 1896 for the enrollment of himself, his wife and children. It also appears that one Johnson Liman was making application to the tribal authorities at the same time that Mr. McClure made his application, and it seems that the census enumerators made a clerical error there in enrolling Mr. McClure's family under the name of Liman, the gentleman who had just previously applied to the authorities for enrollment. Charles L. McClure and his wife and six oldest children are identified upon the census roll of 1896 under the name of Liman, according to page and number as set forth in the testimony. It further appears that Mr. McClure came to and located in the Cherokee Nation and have made their home permanently since May, 1895. This seems to establish the residence of said McClure and his family to the satisfaction of the Commission, and the Commission is also satisfied that Mr. McClure's family were enrolled in 1896 under the name of Liman.

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Charles L. McClure - 2.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 21st of November, 1900.

Guy L. V. Emerson
Notary Public

"R"

D 434

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Charles L. McClure, for the enrollment of himself, wife and children as citizens of the Cherokee Nation:

Applicant was notified by registered letter on February 11, that his application for the enrollment of himself, wife and children as citizens of the Cherokee Nation, would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears in person and by his attorney James S. Davenport.

The Commission: Do you desire to make any statement Mr. Davenport ?

Mr. Davenport: I desire to call the Commission's attention to the fact that after the admission of the applicant's wife and family in 1892, the proof shows that they removed to and permanently located in the Cherokee Nation, on May 17, 1895, but that they came and purchased property in 1893, and the wife returned to where the husband was living, and they made their arrangements to come here and locate permanently on May 17, 1895, and within six months of the passage of the Act of December 4, 1894.

The Commission: The attorney for the applicant and the representative of the Cherokee Nation present, submit the case to the Commission, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 14th, 1902.

In the matter of the application of Charles L. McClure for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife, Fannie F. McClure, and his children, Slater L., Roy M., William L., Hugh C., Marguerite J., Elizabeth L., Eulala and Eva Pauline McClure, as citizens by blood of the Cherokee Nation.

Supplemental to D-434.

CHARLES L. McCLURE, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Charles L. McClure.
Q. How old are you? A. 48.
Q. What is your post office? A. Vinita.
Q. You are a white man, are you? A. Yes, sir.
Q. Claiming the right to be enrolled as a citizen by intermarriage?
A. Yes, sir.
Q. What is your wife's name? A. Fannie.
Q. Fannie F.? A. Yes, sir.
Q. How old is she? A. 41, as near as I can recollect.
Q. Is she a Cherokee by blood? A. Yes, sir.
Q. How long has she lived in the Cherokee Nation? A. Since '95.
Q. Was she admitted to citizenship? A. Yes, sir.
Q. By what authority? A. By an act of the National Council.
Q. She was admitted by an act of the council in 1895?
A. No, sir; in '93.
Q. Has a copy of that act been filed with the Commission?
A. Yes, sir.
Q. When did you and your wife come to the Cherokee Nation?
A. Come here in '95. I come in '93 and stayed six months. We all come in '95.
Q. When were you married? A. Married in '95. I had been married in the states.
Q. But under a Cherokee license you were married in 1895?
A. Yes, sir.
Q. She is your first wife? A. Yes, sir.
Q. Are you her first husband? A. Yes, sir.
Q. Have you been living together in the Cherokee Nation ever since 1895? A. Yes, sir.
Q. How many children have you? A. Eight.
Q. Are they all living? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 5th day of December, 1902.

B. P. Jones
Notary Public.

Cherokee D-434.

81

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charles L. McClure, as a citizen by intermarriage, and Fannie F. McClure and their minor children, Slater L., Roy M., William L., Hugh C., Marguerite Jane, Elizabeth L., Eulala and Eva Pauline McClure, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 26, 1900, Charles L. McClure appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for his wife, Fannie F. McClure, and their minor children, Slater L., Roy M., William L., Hugh C., Marguerite Jane, Elizabeth L. and Eulala McClure, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 6, 1900; at Nowata, Indian Territory, on October 17, 1900; at Chelsea, Indian Territory, on November 20, 1900, and at Muskogee, Indian Territory, on February 27, September 29, and October 14, 1902.

The evidence in this case shows that Charles L. McClure was lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, on November 28, 1885, to his wife, Fannie F. McClure, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said nation on December 4, 1889.

The evidence further shows that Charles L. McClure and his said wife were previously married in accordance with the United States law. As a result of the marriage of the principal applicant and his wife, the minor children applicants herein were born. All of the applicants herein are identified on the Cherokee census roll of 1896, except the minor children, Eulala and Eva Pauline McClure, who were born subsequent to the taking of said roll, and are identified by birth affidavits made a part of the record herein.

The evidence further shows that Fannie F. McClure, the principal applicant's wife, removed to the Cherokee Nation in May, 1883, purchased a location and returned in August of that year to Tennessee, where she remained until May, 1888, when she returned to the Cherokee Nation, since which time Charles L. McClure and his wife, Fannie F. McClure, have resided together continuously in said nation, as husband and wife, up to and including September 1, 1902. The residence of the minor children applicants herein is considered to be the same as that of their parents.

It is, therefore, the opinion of this Commission that Charles L. McClure should be enrolled as a citizen by intermarriage, and that Fannie F. McClure, Slator L. McClure, Roy M. McClure, William L. McClure, Hugh C. McClure, Marguerite Jane McClure, Elizabeth L. McClure, Eulala McClure and Eva Pauline McClure, should be enrolled as citizens by blood of the Cherokee Nation, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

(SIGNED) T. B. Needles
Commissioner.

(SIGNED) C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this FEB -2 1903

Bay.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee R 434.

Muskogee, Indian Territory, December 20, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated October 8, 1902, rejecting the application of Sarah A. Setser for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her six minor children, Annah M., Jane A., Maud L., Ella M., David F. and Lillie B. Setser, as citizens by blood, of the Cherokee Nation, was affirmed by the Secretary of the Interior on December 5, 1902.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

A[illegible] AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-434

Muskogee, Indian Territory, February 7, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, granting the application of Charles L. McClure for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Fannie F., and their minor children, Slater L., Roy M., William L., Hugh C., Marguerite Jane, Elizabeth L., Eulala and Eva Pauline McClure, as citizens by blood, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-425

MATTER OF THE APPLICATION

Charles L. McClure et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

R 12/30/02

A Original testimony, Sept. 10. 1900
B Memo. of application
C Supplemental testimony Oct. 5, 1900
D Supplemental testimony Oct. 17, 1900
E Supplemental testimony Nov 20. 1900
F Affidavit of Birth
G Marriage license.
H Marriage certificate
I Certificate of readmission
J Memo. of childrens names & ages.
K notice of final consideration 2/27/02

L Receipt for testimony.
M Supplemental proceedings and order closing testimony, Feb. 27, 1902
N Birth affidavit, Eva P. McClure

Cancelled and [illegible] to
Cherokee [illegible]

Cher D 435

Cher D 435

D435

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 26th, 1900.

IN THE MATTER OF THE APPLICATION OF Martin L. Patterson, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows;

Q What is your name? A Martin D. Patterson.
Q What is your age? A Forty three.
Q What is your Postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A Inetermarriage.
Q For whom do you apply for enrollment? A Myself, wife and four children.
Q What is the name of your wife? A Zona Patterson.
Q What was her name before you married her? A Zona Dawson.
Q Is she a citizen by blood? A Yes sir.
Q When did you marry her? A In 1890.
Q What is the name of her father? A Elbert Dawson.
Q Is he living? A No sir?
Q What is the name of her mother? A Jane Dawson.
Q Is she living? A Yes sir.
Q Have you any certificate of marriage? A Yes sir.

The applicant presents a certificate of the issuance of a marriage license to marry miss Zona Dawson, a citizen of the Cherokee Nation, on the 13th day of July, 1890, according to the laws of the Cherokee Nation.

Q What are the names of your children? A Sarah Adaline.
Q How old is she? A Nine years old.
Q Next one? A Martha Alice.
Q How old is she? A Seven.
Q Next one? A Claud A.
Q How old is Claud? A Five.
Q Next one? A Edgar Dawson.
Q How old is Edgar D.? A Three years old.
Q Next one? A Thomas Meredith.
Q How old? A One year old.
Q Are these children all living, and living with you at this time?
A Yes sir.
Q Have you any proof of birth as to these younger children?
A Yes sir.

The applicant presents satisfactory certificates of birth as to the birth of his two younger children, Edgar D., and Thomas Meredith.

Q Does the name of your wife appear on the authenticated roll of 1880? A I think not.
Q By what tright do you claim citizenship for her? A Her father was admitted in 1883.
Q Have you any certificate of admission? A Yes sir.
Q What is the age of your wife? A Thirty years old.
Q What is her father's name? A Albert Dawson.

The applicant presents a certificate of [illegible] admission, issued from the office of the Commission on citizenship, under date of January 11th, 1883, signed by D. W. C. Duncan, Clerk of the Commission; certifying that one Albert Dawson was duly admitted to Cherokee citizenship on the 11th day of January, 1883.

Q Is the Albert Dawson, mentioned in this certificate, the father of the Zona Dawson, for whom you apply for enrollment? A Yes sir.
Q When was your wife born? A She is thirty years old.
Q Born in 1870? A Yes sir.
Q Your wifes father was admitted in 1883? A Yes sir.
Q When did your wife move to the Cherokee Nation? A They moved here about 1884, I [illegible] think.

Q Has she been living here continuously ever since 1894?
A Yes sir.

(1894 Roll, Page 383, #425, Martin L. Patterson, Delaware D'st)
(1896 Roll, Page 815, #2382, Zona Patterson, Delaware D'st)
(1896 Roll, Page 815, #2383, Sarah A. Patterson, Delaware D'st)
(1896 Roll, Page 815, #2384 Martha A. Patterson, Delaware D'st)
(1896 Roll, Page 815, #2385, Claud Patterson, Delaware D'st)

The name of Martin L. Patterson appears upon the census roll of 1896, as well as the name of his wife, Zona, whose name before he married her was Zona Dawson, and he swears that she was the child of Elbert Dawson, who was admitted to citizenship in the year 1883, the certificate of his admission being more particularly described in the testimony. And the names of his children, Sarah A., Martha A. and Claud A appear upon the census rolls of 1896; He presents satisfactory proof as to the birth of his two younger children, Edgar Dawson and Thomas H., whose names do not appear upon the census roll of 1896.

The applicant applies for enrollment as an intermarried citizen, and presents satisfactory marriage license, showing that he was married to one, Zona Dawson, a Cherokee citizen by blood, shown to be the child of Elbert Dawson, who was admitted to citizenship in the year 1883. The parties herein are identified according to the page and number of the rolls as indicated in the testimony, and satisfactory proof has been made as to the residence of the said applicants.

Comes the Cherokee Nation, by its representatives, and protests against the enrollment of Zona Patterson, nee Dawson, as a Cherokee citizen by blood, because of the fact that her father was admitted to citizenship by fraud; also because of the fact of her not having moved to the Cherokee Nation a sufficient time after the admission of her father to warrant her citizenship: Consequently, final judgment as to the enrollment of the said Martin L. Patterson, his wife Zona Patterson, and his children, as enumerated in the testimony will be suspended, and their names will be placed upon a Doubtful Card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

A R Cravens

Subscribed and sworn to before me
this 27th day of September, 1900.

COMMISSIONER.

1435

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 9 1902
ACTING CHAIRMAN

Chero. D-435.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., April 8, 1902.

In the matter of the application of Martin L. Patterson for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

Francis Marion Dawson, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Francis Marion Dawson.
Q How old are you? A Soon will be sixty.
Q What is your postoffice address? A Afton now; it was Oseuma.
Q Are you acquainted with Zona Patterson, the applicant in this case? A Yes sir.
Q Did you know her father? A Yes sir.
Q How is he related to you? A Brother.
Q Did you know her mother? A Yes sir.
Q What was her name? A Jane, a white woman.
Q Is she living or dead? A She is living.
Q Do you know when she and Elbert Dawson were married? A Before the war; I don't remember the time; they had two children at the time of the war.
Q Were you present at the marriage? A I wasn't present; they came to my fathers from their fathers. They were about three miles apart.
Q They were married at her father's house and came directly to your father's house? A Yes sir, the next day.
Q Did they continue to live together as husband and wife all the time until the time he died? A Yes sir, all the time.
Q They were recognized throughout the community as man and wife?
A Yes sir, they raised a large family of children.

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I, the undersigned stenographer to the Commission to the Five Civilized Tribes, do hereby certify that I recorded the proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

E. G. Rothenberger

COMMISSION [illegible]
[illegible]
OCT 31 1902

D435

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 4th, 1902.

In the matter of the application of Martin L. Patterson for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife, Zona Patterson, and his children, Sarah A., Martha A., Claud A., Edgar D., Thomas M. and Virgil V. Patterson, as citizens by blood of the Cherokee Nation.

Supplemental to D-435.

Appearances:

Applicant appears in person.
Cherokee Nation by J. C. Starr.

MARTIN L. PATTERSON, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Martin L. Patterson.
Q. What is your age at this time? A. 46 years.
Q. What is your post office address? A. Afton.
Q. Are you the same Martin L. Patterson for whom application was made to this Commission for enrollment as an intermarried citizen on September 26th, 19oo? A. Yes, sir.
Q. What is your wife's name? A. Zona Patterson.
Q. Is she a citizen by blood of the Cherokee Nation?
A. Yes, sir.
Q. Is she living at this time? A. Yes, sir.
Q. When were you and she married? A. Married in '9o.
Q. 189o? A. Yes, sir.
Q. Married under a Cherokee license? A. Yes, sir.
Q. Have you filed the license with the Commission? A. Yes, sir.
Q. Were you ever married prior to your marriage to this wife?
A. No, sir.
Q. Was she ever married prior to your marriage to you?
A. No, sir.
Q. You are her first husband, she is your first wife? A. Yes, sir.
Q. Have you and she lived together all the time from the time you were married up to the present time? A. Yes, sir.
Q. Never separated during that time? A. No, sir.
Q. Never been married to any other woman since you married your wife Zona? A. No, sir.
Q. Living together on the first of September, 1902, as husband and wife? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. 19 years.
Q. Have you lived here all the time for the last 19 years?
A. Yes, sir.
Q. How long has your wife lived in the Cherokee Nation?
A. Came here in '85.
Q. And lived here all the time since 1885? A. Yes, sir.
Q. Are these children, Sarah A., Martha A., Claud A., Edgar D., Thomas M. and Virgil V., your children by your wife Zona?
A. Yes sir.
Q. Are these children all living at this time? A. Yes, sir.
Q. And have they lived in the Cherokee Nation all their lives?
A. Yes, sir.

JESSE O. CARR, being first duly sworn, says that as stenographer to the Commission to the [illegible] he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 28th day of October, 1902.

B O Jones
Notary Public.

CHEROKEE. No. 43

Martin L. Patterson Etal.

1 1 V

[illegible] transferred to [illegible] Card No. 10726

COPY OF DECISION FILED
WITH THE CHEROKEE NATION.

OCT 14 1907

Dec. 23 04

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Cher D 436

D436

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN B. BROWN FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN.

The said John B. Brown, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A John B. Brown.
Q How old are you? A Fifty-one.
Q What is your post office? A Springer.
Q In what district do you live? A I am living in the Chickasaw Nation now, in Pickins County, as it is called.
Q Who is it you want to have put on the roll? A Just myself.
Q Are you a Cherokee by blood? A Yes, sir.
Q Do you apply for enrollment as a Cherokee citizen by blood? A Yes, sir.
Q You don't propose to enroll in the Chickasaw Nation? A No, sir; just my wife and children, they enroll down there.
Q Did you ever live in the Cherokee Nation? A Yes, sir; I was born and raised here.
Q How long have you lived in the Chickasaw Nation? A I have just been living there about a year and a little over.
Q Before that where did you live? A In the Cherokee Nation.
Q All your life? A Well, yes. When I first married twenty-seven or eight years ago I lived in the Chickasaw Nation, and then I lived here until about a year ago.
Q You are on the roll of 1880, are you? A Yes, sir.
Q From what district were you in 1880? A It must have been Cooweescoowee. I was born and raised in this district.
Q In 1896 in what district? A I guess I was in the same district.
Q What is your father's name? A John Brown.
Q Is he dead or alive? A Dead.
Q Has he been dead more than twenty years? A Yes, I guess he has been dead all of that.
Q Your mother's given name? A Lizzie.
Q Dead or alive? A Dead.
Q More than twenty years? A Yes, sir.

1896 Roll, page 115, No. 503, John B. Brown, Cooweescoowee District. Native Cherokee.

THE COMMISSIONER: The applicant is identified on the roll of 1896 as a native Cherokee. He states that he was born in the Cherokee Nation, spent a short time in the Chickasaw Nation previous to 1880, and after that lived in the Cherokee Nation until about one year ago, when he removed to the Chickasaw Nation, where he is living at the present time. He cannot be identified on the roll of 1880, and it is presumed that he was absent in the Chickasaw Nation at that time. For the present his application will be placed upon a white card for further consideration by the Commission.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 10th day of October, A. D. 1900.

Commissioner.

"R"

D 436

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of John B. Brown, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902, and that he could on said date appear before the Commission, either in person or by attorney, when an opportunity would be granted him to introduce any additional testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

Applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, the case is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

D-436.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., June 5, 1902.

In the matter of the application of John B. Brown for the enrollment of himself as a citizen by blood of the Cherokee Nation.

SUPPLEMENTAL TO D-436.

APPEARANCES:
Wm. M. Cravens in behalf of applicant.
L. B. Bell in behalf of Cherokee Nation.

COMMISSION: The applicant was notified by registered letter May 26, 1902, to appear before the Commission at its offices in Muskogee, Indian Territory, at any time prior to June 10, 1902, for the purpose of introducing further testimony as regards his application for enrollment as a citizen by blood of the Cherokee Nation.

JOHN B. BROWN, being first duly sworn, testified as follows:

MR. CRAVENS: What is your name? A John Brown.
Q Well have you got a middle name? A John B. Brown.
Q How old are you? A Well I am going on 53 years old I reckon, born in '49.
Q Where were you born? A I was born on what they call Dog Creek.
Q In what country? A In the Cherokee Nation near Claremore.
Q Who was your mother? A Her name is Lizzie.
Q What was your father's name? A His name was John.
Q Did he have a middle name? A No, sir, John Brown, he had other names.
Q Well that's enough; what was his blood? A Cherokee,
Q He was a Cherokee? A Yes, sir.
Q Where did he live and die? A He lived and died in Cooweescoowee District.
Q In the Cherokee Nation? A Yes, sir.
Q What was the blood of your mother? A She was a Cherokee.
Q Where did she live? A She lived -
Q Where did she die? A She died in Cooweescoowee District.
Q What was her maiden name? A Well, sir, I couldn't answer, as well as I remember she was a Fields, I don't know positively.
Q You told me she was a widow when your father married her? A Yes, sir, she was a widow, Goody.
Q Well where were you raised? A Well, sir, I was raised in the Cherokee Nation, Cooweescoowee District.
Q Cooweescoowee District of the Cherokee Nation? A Yes, sir.
Q How long did you live there, what age were you when you left?
A Cooweescoowee?
Q Yes, sir. A I never left there until after I was a grown man.
Q Well you went from there to the Chickasaw Nation? A I went to the Chickasaw Nation.
Q Well since going to the Chickasaw Nation have you or not returned or moved back and lived again in the Cherokee Nation? A Yes, sir, till about three years ago.
Q Where did you go then? A After three years ago I moved back to the Chickasaw Nation with my family.
Q Your wife is a Chickasaw? A Yes, sir, my wife's a Chickasaw.
Q While you lived in the Cherokee Nation was your citizenship, your right to citizenship in the Cherokee Nation ever disputed or doubted?
A No, sir, never was.

Q Were you always recognized as a Cherokee? A Always recognized.
COMMISSION: Were you ever known by any other name than John B. Brown? A Yes, sir, they used to call me Tekuskie, Buskie.
Q Where were you living when the roll of 1880 was made? A I was in the Chickasaw Nation.
Q Do you know whether your name appears upon that roll? A Well now I thought it was because I had a correspondence with my father, he was living, and I thought he had enrolled me, and if he had enrolled me it would have been as Buskie.
Q Buskie Brown? A Yes, sir, as Buskie Brown, and I don't know that he has done it you know.
Q Now have you drawn any money from the tribal authorities of the Cherokee Nation? A Yes, sir.
Q Did you draw the strip money in 1894? A Yes, I drawed the strip money.

Applicant is not identified on the Authenticated Roll of 1880.

1894 roll, page 137, No. 344, John B. Brown, Cooweescoowee District.

Q Now did you draw the money from the tribal authorities of the Cherokee Nation in 1886? A What payment was that? I don't remember.
Q That was about a fifteen dollar payment wasn't it, Colonel?
MR. BELL: I believe it was.
A I don't know whether I drew that or not, I recollect I was living on Big Creek then.
Q In Cooweescoowee District? A Yes, sir, I am not positive the payment that I drew I was living on Big Creek. Major Lipe was treasurer or what, I forget, well I believe I drew it when Major Lipe was treasurer.
Q Well did you draw the money from the Nation in 1883? A Yes, I guess I did because I came back in 1882, moved from the Chickasaw Nation back up there in 1882.
Q During your residence in the Cherokee Nation did you always reside in Cooweescoowee District? A Yes, sir, I lived there at that time.
Q Have you ever lived in any other district of the Cherokee Nation?
A No, sir, never did.
Q Have you any children, Mr. Brown? A Yes, sir, I have got three children.
Q Onenamed Susan F.? A That's my wife's name.
Q A child named Martha? A Buskie.

Applicant is identified on the 1896 Cherokee Pay roll on page 13, in Cooweescoowee District, under the name of J. B. Brown.

L. B. BELL, being first duly sworn, testified as follows:

MR. GRAVES: State your name please? A L. B. Bell; Vinita; 64 years old.
Q What is your nationality, blood? A Cherokee, part of it, mostly Irish.
Q You are a recognized Cherokee are you? A Yes, sir, recognized Cherokee now and raised as such.
Q Do you know the applicant, John B. Brown? A Yes, sir.
Q How long have you known him? A Well we'll say 45 years any way; I think it's something more than that, since he was very small.
Q What is he, what is his blood? A He is a Cherokee.
Q Has he always been recognized as a Cherokee citizen by blood? A Yes, sir, as far as I know; his father was a Cherokee

before him as was his mother.

Q His father and mother were both Cherokees; did his father ever hold an official position in the Cherokee Nation? A Well, yes, sir. My first recollection of John Brown was – that was his father's name, John Brown – was when he was sheriff of Saline District, and then from that on up he was member of the council, was a member of the council here, oh, several times I think, that is after the war.

Q His mother was also a Cherokee you say? A Yes, sir, what the general understanding was; never heard it questioned.

Q His mother and father both lived and died in the Cherokee Nation did they? A Yes, sir, Cooweescoowee District, right where they were living when I first got acquainted with them in Cooweescoowee District now, it might have been Saline District at the time; I don't recollect the exact date on which that newdistrict was made.

COMMISSION: Colonel, have you heard this man's right to enrollment disputed? A No, sir, never heard it being questioned.

Q Prior to his removal to the Chickasaw Nation were you acquainted with him? A Yes, sir, I have known him ever since he has been about four or five years old.

Q During all that time he has been generally recognized as a citizen has he not? A Yes, sir. He went off to the Chickasaw Nation and married; that's about the truth of what got him down there, and when they went and enrolled the Chickasaws his family was Chickasaw, and he bundled up some few years ago and went down for I think to get them on the Chickasaw roll, that's about the truth of it.

JOSHUA ROSS, being first duly sworn, testified as follows:

MR. GRAVENS: What is your name? A Joshua Ross.

Q How old are you? A 60 years old.

Q What's your blood, nationality? A Cherokee.

Q By blood? A Yes, sir.

Q Do you know the applicant, John B. Brown? A Yes, sir.

Q Did you know his father and mother? A I knew his father, yes, sir.

Q Did you know his mother? A No, I didn't know her, I knew his father well though.

Q Where did you know his father, where did he live? A I used to know him about Tahlequah and then in Saline District, and then I saw him after the war, he lived with an uncle then.

Q What was he? A He was a Cherokee Indian.

Q Full-blood? A He looked like a full-blood, large dark-complected man.

Q Well how long have you known the applicant? A Well I have known him at least forty years, about that, thirty-seven or forty years.

Q What's his blood, nationality? A His blood is Cherokee, derived from his father and mother.

Q Do you know of his right to Cherokee citizenship ever being denied or disputed, questioned? A No, I don't.

Q Always been recognized as a Cherokee? A Yes, sir.

COMMISSION: (Of applicant) What nation are you living in now, Mr. Brown? A I am in the Chickasaw Nation.

Q What degree of Cherokee blood do you claim? A I have always been told that I was an eighth, I couldn't tell you nothing about that; I have told them how much my father was and mother was, they claimed that I was more than an eighth.

I never did figure it out and never thought anything about it.

I went to the Chickasaw Nation the first time about thirty years ago did you not? A I went there in either '73 or '74 and married in that country.

Q You married in that country? A Yes, sir.

Q Is your wife a citizen of the Chickasaw Nation? A Yes, sir, citizen of the Chickasaw Nation.

Q Does she own property down there? A Yes, sir, farm there, born and raised there.

Q Since that time have you ever made your home here in the Cherokee Nation, that is, have you resided here at any time in the Cherokee Nation since that time? A After we married a few years I concluded that I could do better in the Cherokee Nation.

MR. GRAVENS: What did you do? A I was farming.

Q You moved back to the Cherokee Nation did you? A Yes, sir.

COMMISSION: How long did you stay there? A Till three years ago, after this enrollment come up there and I saw my wife and children was going to be enrolled as Chickasaws and me as a Cherokee, we come to the Commission here, and they notified me to appear before them, and I come before them, and my wife and children was enrolled as Chickasaws, and told me that I would be enrolled as a Cherokee, and so I goes down and buys a place there, I had a place up there.

Q You moved to the Chickasaw Nation and bought a place for your wife and children? A Yes, sir.

Q You yourself owned property in the Cherokee Nation? A Owned a place up here in the Cherokee Nation.

Arthur G. Groninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the preceding case, and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Groninger

Subscribed and sworn to before me this 14th day of June, 1902.

J G Reuter
Notary Public.

Cherokee D 436

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

481

In the matter of the application of John B. Brown for the enrollment of himself as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

—o0o—

The record in this case shows that on September 26, 1900, John B. Brown appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on June 5, 1902.

The evidence shows that John B. Brown, fifty-one years of age at the time of his application, is a native Cherokee. His name does not appear upon the Cherokee authenticated tribal roll of 1880 because he was absent in the Chickasaw Nation at the time that roll was made. Upon an examination of the Cherokee tribal rolls in the possession of this Commission the name of John B. Brown is found on the Cherokee pay roll of 1883, on the Cherokee Pay roll of 1886, on the Cherokee Pay roll of 1890, on the Cherokee Census roll of 1890, on the Cherokee Strip Payment roll of 1894, and on the Cherokee Census roll of 1896, as a Cherokee by blood.

It further appears from the evidence that the said John B. Brown was born and reared in the Cherokee Nation and lived there almost all his life, but at the time of his application for enrollment, and for about a year prior thereto, he was living in the Chickasaw Nation, in the Indian Territory, for the purpose of enrolling his wife and children as citizens of that Nation.

It is, therefore, the opinion of this Commission that John B. Brown should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this AUG 11 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 436.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of John B. Brown for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision, granting the application of John B. Brown. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 11.

D 4

IN THE MATTER OF THE APPLICATION OF

John B. Brown

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

a. Original testimony Sept. 26. 1900
B. memo. of application
C notice of final consideration 2/27/02
D Order Closing testimony, Feb. 27, 1902

Sept. 17, 1902 Cancelled and
transferred to Cherokee No 9579

Cher D 437

See Cher R 179

Cher D 437

D4 37

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
NOV 11 1900

POOR ORIGINAL -
BEST AVAILABLE COPY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Vinita, I.T. September 26, 1900.

IN THE MATTER OF THE APPLICATION OF ROBERT D. RALSTON FOR THE ENROLLMENT OF HIMSELF AND CHILDREN AS CHEROKEE CITIZENS.

The said Robert D. Ralston, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please. A Robert D. Ralston.
Q How old are you? A Forty-five.
Q What is your post office? A Woodmore.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A Myself and four children.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A About one-eighth.
Q How long have you lived in the Cherokee Nation? A Well, hardly two years yet.
Q How did you acquire your citizenship? A Why, I had an agent to get it for me.
Q Well, who did he get it from? A He got it from the Cherokee Commission.

THE COMMISSIONER: The applicant presents a duly authenticated certificate of admission to Cherokee citizenship, showing that on October 14th, 1887, certain people were admitted to Cherokee citizenship by the Cherokee Commission, and among them appears the name of Robert D. Ralston.

Q That is your name is it? A Yes, sir.

THE COMMISSIONER: This is taken as official evidence of the facts stated, and the certificate is returned to the applicant.

Q Where were you living at the time you got your admission? A In Georgia.
Q You didn't come here until a year ago? A I didn't finally come until two years ago. I had been in and out several times.
Q You didn't bring your folks here and stay until two years ago? A No, sir; my family wasn't well enough to move.
Q What was the matter with your family during that time that they could not come here? A My wife or children one was sick all the time.
Q One of them were sick all the time? A Yes, sir; these children are all dead now but one, that is on that roll.
Q Give me the names of the children you apply for now please. A Robert L.
Q How old is that child? A He is thirteen.
Q The next child? A Viola L.
Q How old is that child? A Nine.
Q The next child? A Lucy.
Q How old is she?
A She is six.
Q The next child. A Luke.
Q How old is that child? A Four.
Q That is all, is it? A Yes, sir.
Q These children came with you two years ago? A Yes, sir.
Q They had never been over here before that time, were they? A No, sir.
Q Of course they are not upon any roll? A Yes, sir; two of them are on the 1896 roll.
Q Which ones, Robert L. and Viola? A Yes, sir.
Q Are you on the 1896 roll? A Yes, sir.
Q That is the only roll you are on is it? A Yes, sir.

Q Now, this child Robert L., was he born since October 14th 1887,--since you were admitted? A He was admitted; he is one year old there.

THE COMMISSIONER: The name of Robert L., is identified on the certificate of admission presentedby the applicant.

(By Mr. W.T.Hutchings, Counsel for Cherokee Nation)

Q You remained in Georgia after your admission and took part in all of the elections, both State and municipal, didn't you, and voted at them? A Yes, sir.

Q You were chief of police of the town of Dalton, Georgia, for a long time after your admission to citizenship? A Yes, sir.

1894 Roll, page 288, No. 3673, Robt. D. Ralston, Cooweescoowee District.

1894 Roll, page 288, No. 3674, Robt. L. Ralston, Cooweescoowee District.

1894 Roll, page 288, No. 3675, Violet Ralston, Cooweescoowee District.

Q What is the name of the mother of these children?
A Vashty.

Q Cherokee or white woman? A She was a white woman.

Q And is she dead or alive? A She is dead.

Q How long has she been dead? A She died in 1896.

Q When were you marriedto her? A Here is the paper.

THE COMMISSIONER: The applicant presents what purports to be an official copy, though it is without the seal of office, of his marriage license, from Whitfield County Georgia, under date of March 1st, 1884, authorizing the marriage between himself and Vashty Echols. Signed by W. J. Underwood, Ordinary. The certificate attached thereto states that the parties were married in accordance with said license on the second day of March, 1884. This is accompanied by an official statement from the Ordinary and exofficio Clerk of the County stating that the copy is correct. These papers are filed herewith.

Q You and your wife lived together from the time ofyour marriage until the time of her death, did you? A Yes, sir.

Q What year was it you came here? A It was in February 1899.

THE COMMISSIONER: The applicant applies for the enrollment of himself and four children-------

THE APPLICANT: Will you allow me to show you a letter before you make your decision?

THE COMMISSIONER: Yes, sir.

(Letter handed to Commissioner)

THE COMMISSIONER: That does not affect the status of your case at all. That is just what I am going to tell you.

Q Are all these children livingat this time? A Yes.

THE COMMISSIONER: The applicant applies for the enrollment of himself and four children. He is shown by the official certificate cited in the testimony to have been admitted to Cherokee citizenship in 1887; according to his own evidence he did not move to the Cherokee Nation and gain his residence here until February 1899, therefore he comes under the provision of Sec. 21 of the Curtis Bill, approved June 28th, 1898, which provides that no person shall be enrolled who has not heretofore removed to "and in good faith settled in the Nation in which he claims citizenship." He is identified on the roll of 1894, but as he did not move to the Cherokee Nation until 1899 and exercised all the functions of citizenship in the State of Georgia from the time of his admission until he moved here, he cannot be enrolled at this time, and his application for his own enrollment is rejected.

As regards the application for the enrollment of his four children enumerated in the testimony: The eldest one, Robert L., is identified on the certificate of admission cited in the testimony; he was then, and is now, a minor, being at the time of his admission one year old and now thirteen years of age.

The child Violet is identified on the roll of 1894, as is the child Robert L. The two younger children Lucy and Luke are not identified on any roll, but all three of the latter children were born since the admission of their father to Cherokee citizenship. They came to the Cherokee Nation at the time their father removed to the Nation, but being minors during the period of their absence, the application for their enrollment will be taken under consideration, and their names will at present be placed upon a doubtful card.

The applicant will be required to supply the Commission with certificates of birth of the two younger children, Lucy and Luke, who are not upon any roll. The two elder children are living at this time with the applicant in the Cherokee Nation. The applicant is shown by the official evidence of his marriage to have been married to his wife in 1884. They lived together from the time of their marriage until her death in 1898.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 11th day of October A. D. 1900.

Commissioner.

2437

[illegible] of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, February [illegible], 1902.

In the matter of the application of [illegible] D. Paisley for the enrollment of his children as Cherokee citizens.

Appearances:
[illegible], of [illegible], West and Parker, of Tahlequah, I. T., attorneys for the applicants;
W. W. Hastings, attorney for the Cherokee Nation.

[illegible]: The applicant and his attorneys were notified by registered letter February 11, 1902, that this case would be [illegible] for final consideration by the [illegible] February, 1902. [illegible] has been made [illegible] Commission [illegible] this day, (to-wit, the [illegible] day of February, 1902, the applicant appeared by his attorneys, [illegible] West and Parker [illegible].

The attorney for the [illegible] and the representative of the Cherokee [illegible] this case to the Commission [illegible] for final decision [illegible] of record.
The attorney for the [illegible] case in which [illegible]
[illegible]

[illegible], being first duly sworn, states that as stenographer to the Commission [illegible] she reported in full all [illegible] in the above entitled cause, and that the foregoing is a true and complete transcript of her stenographic notes thereof.

Subscribed and sworn to before me this February 28, 1902.

Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 13 1902
ACTING CHAIRMAN.

"R"

Cherokee D 437

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Robert D. Ralston for the enrollment of his children as Cherokee citizens:

Appearances:
Luman F. Parker, Jr., of Hutchings, West and Parker, Vinita, I. T., attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and his attorneys were notified by registered letter February 11,1902, that this case would be taken up for final consideration by the Commission on the 27 dayof February,1902. Receipt has been acknowledged of the Commission's letters and on this day, to-wit, the 27th day of February,1902, the applicant appears by his attorneys, Hutchings, Parker and West, of Vinita,I.T.

The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant requests and will be granted ten days in which to file brief, one copy with the Commission andone copy with the Representatives of the Cherokee Nation.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedihgs in this case and that the foregoing is a true and completetranscript of his stenographic notes thereof.

MDGreen

Subscribed and sworn to before me this February 28,1902.

Commissioner.

Copy for a.g. of
Cherokee Nation

D437

In re

Robt L. Raulston
Violet "
Lucy "
Leslie "
Minors

Brief for applicants

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 28 1902
ACTING CHAIRMAN

Hutchings Pardee & Keach
Attys

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of

ROBERT L. RALSTON
VIOLET L. RALSTON?
LUCY RALSTON?
LUKE RALSTON, for enrollment as Cherokee citizens.

We beg leave to submit the following memoranda on behalf of the above applicants:

The record shows, and it is not disputed, that these children are all Cherokees by blood, are minors and are now residents of the Cherokee Nation. The duly authenticated certificate of readmission discloses that on October 14th, 1887, their Father, Robert D. Ralston, and the child Robert L. (the otherapplicants not having been born), were duly readmitted to citizenship in the Cherokee Nation un the act of the Cherokee Council of December 8th, 1886, and that the other children mentioned were born after the Father had been readmitted and previous to the limitation statute enacted December 4th, 1894, save one, Luke, and that he was born prior to the passage of the Curtis Act.

On September 26h, 1900, the application of the Father, Robert D. Ralston, was denied because he had not permanently settled in the Cherokee Nation prior to the passage of the Curtis Act. Without considering that action, we will discuss, now, the status of these children.

Under the law as we view it there is little or no difference between them, so far as their rights are concerned, still if there is any difference, it is in favor of Robert L. the oldest. He was one year old when admitted as a citizen in his own right, his name appearing in the certificate of re-admission with his father, and since that time he has been recognized as a citizen of the Cherokee Nation, his name appearing upon the 1894 and subsequent rolls. He came to the Cherokee Nation in the winter of 1898, and is now fifteen years of age. He may, in our judgment, stand upon his own right as a readmitted and duly recognised citizen of the

Cherokee Nation, independent of the situation of his father. In other words, by being himself readmittedto sitizenship in 1887, he thereby became vested with a property interest and right personal to himself, which right was secured to him as a minor, which has not by operation of law or act of his been forfeited.

Under the act of December 8, 1886, there was no requirement as to residence even as to adults, nor time fixed within which persons readmitted thereunder should remove to the western home of the Cherokees. This act, however, was amended on December 5th, 1888, which provided that persons readmitted thereunder should become bona fide residents of the Nation within one year from the date of their admission. Clearly this was not retroactive, and did not apply to those who had been admitted under the original act, for if it had many would have been, by its terms, barred altogether, and in this ~~xxx~~ case the father and son would have been given ten days within which to remove.

Then followed the omnibus provision of the act of December 8th 1894, bywhich it was provided that all persons theretofore or thereafter admitted, should locate in the Cherokee Nation within six months, PROVIDED THAT THIS SHOULD NOT APPLY TO MINORS AND ORPHANS! If minors had no rights independent of their parents, why whre they expected from the operation of the act? Why was it not confined to orphans only? This saving clause was intended to and did protect children in the position of Robert L. and his sisters Violet and Lucy then living, aged four years and six months respectively at its date. The Cherokee Laws as well as the procedure for enforcing them will be searched in vain to find where minors were ever deprivied of the right to citizenship or any other right, in any manner whatsoever, either because of the emission to do an act required, or in committing an act forbidden. The equitable doctrine of minors' irresponsibility is admirably illustrated in the dealings of the Cherokee Nation with her children, and the laws passed for their protection.

Continuing this point in Robert's favor, we maintain, his status in fixed by his readmission to citizenship in October, 1887, for since that date he has been recognized as such, and has been protected by the humane proviso of the Act of December 4th, 1894, and the customs of the tribe, under which he could not be deprived of his right while a minor. His minority claims recognition not only by virtue of those laws but also under the provision of the act of Congress of June 10th, 1896, by which this Honorable Commission was and is authorized to consider citizenship matters: "That in determining all such applications said commission x x x shall respect all laws of the several nations or tribes x x x x x and shall give due force and effect to the rolls, usages and customs of each of said nations or tribes."

With reference to the application of Violet L., and Lucy, we take the position that there status was fixed at the time of their birth. There is no question, but that Robert D. Ralston, the father, having been duly readmitted and subsequently enrolled, was recognized as and was in fact a citizen of the Cherokee Nation until he forfeited his right under the limitation in the Act of 1894. Both of these children were born prior to that time.

Quoting from Vattel, on the Law of Nations "The true bonds which connect the child with the body politic is not the matter of an inanimate piece of land, but the moral relations of his parentage." Westlate says: Legitimate children, in whatever region or place they may be born, are regularly members of the state of which their parents form part, at the moment of their birth." Feolix, says, that "The child is a part of the nation to which his father belongs, if the child is born in lawful wedlock, or to the nation of its mother, if the mother is not married. Field in his International Code says: "A legitimate child wherever born is a member of the Nation of which its father at the time of its birth was a member." Field also says: "IT IS WELL SETTLED THAT EVERY INDIVIDUAL MUST BE A MEMBER OF SOME SOCIETY OR NATION".

While it is true, according to the rule of internation law that the children follow the citizenship of the father, yet, it does not by any means follows that because the father has lost or forfeited his citizenship, or property right, that the children have lost and forfeited theirs also. We will undertake to show that the Cherokee nation has expressly provided the contrary. The question here is NOT that Robert D. Ralston, the father, having renounced his citizenship in one country, and voluntarily become a citizen of another, but it is, Robert D. Ralston the father, having by act of his own failed to comply with the provision of the act of December 4th, 1894, FORFEITED HIS PROPERTY RIGHT, TO-WIT, HIS CITIZENSHIP IN THE CHEROKEE NATION NATION, AND YET BY THAT SAME ACT IT WAS PROVIDED, IN EFFECT, THAT NOTHING HE MIGHT DO SHOULD PREJUDICE HIS INFANT CHILDREN! What stronger language could be used to vest in the infant a right independent of its parent.

It is quite clear therefore, that so far as the laws and customs of the Cherokee Nation (the real party claiming a forfeiture here) are concerned, these children are beyond question entitled to enrollment. The only limitation enacted by the Cherokee Nation since the readmission ~~and~~ of Robert and their Father, being the act of 1894, and it expressly excepts thsemves ~~and~~ well as Robert, and preserves their rights by its very terms.

The act referred to being a voluntary one on the part of the Nation, it will be presumed to have intended what it said, in its broadest terms, and that it expressed the purpose and policy of the Cherokee Nation, so far as minors rights to citizenship were concerned. It is manifest therefore, any action of the Commission, [illegible] or Act of Congress, which might seem to justify it, would be in derogation of the right thus vouchsaved to infants, and contrary to the fixed policy and express purpose of the Cherokee Nation.

The provision of the Curtis Act touching this matter is as follows: "No person shall be enrolled who has not heretofore removedto and in good faith settled in the nation in which he claims citizenship."

In the light of the Cherokee laws and customs with reference to citizenship, the word "person" as there used must mean"person *sui juris* - a person capable of "settling in good faith in the nation", and legally competent to determine and fix his place of residence. It should never be held to apply to lunatics, infants and orphans.

An infant cannot in law, by his own act change his domicil (Ency. Law 1, ed. p.). This is the settled law everywhere andwas so in the Cherokee Nation. He must be competent to act. In recognition of this principle of law and common sense the Cherokee Nation provided, that they should not forfeit any rights by failure to remove to the Nation until qualified and competent to act in the eye of the law, and in the meantime, by express terms protected them fsom any forfeiture of which their parents might be guilty.

Forfeitures are not favored. Lqws which operate as such are to be strictly construed.

"A condition when relied upon to work a forfeiture is construed with great strictness. "
New York Indians v. U.S. 170 U.S. p. 25, 26.
The grantor (Nation here) must stand on its legal rights and every presumption must be in favor of the applicant.
Ibid.

A condition will not be extended beyond its express terms by construction. The nation must bring itself within the terms to entitle it to a forfeiture.
Ibid.
See, Tiedeman on Real Prop. #731.

To hold that the provision of the Curtis Act quoted applied, incompetents, infants and all would certainly be in derogation of common right, and in conflict with the express provisions of the Cherokee Law. Did Congress so intend. It cannot be so. Clearly they could not expect a child to "have removed and in good faith settled in the nation" it not being omcpetent to do these things.

Is it not the duty of the commission to take into consideration the conditions prevailing, the laws, usages and customs of the particular tribe in which the law is applied, and if possible give such a construction to this provision as will be in harmony with right and justice. These children are not cut off by any law of the Cherokee Nation - on the contrary have been enrolled and duly recognized, therefore will it be presumed that Congress would, (if it could) deprive person incompetent in law of a right clear and certain under the tribal law. Would it not be in consonance with justice to hold the word"person"implied a legal competent person, one qualified to "settle in good faith", and thus give full force and effect to the laws and customs of the Cherokee Nation passed and created for the protection of the children.

Respectfully submitted,

Hutchings, Fisher & Welch

Attorneys for the Applicants.

P

[illegible]

Robert [illegible]

[illegible]

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., April 10, 1902.

In the matter of the application of Robert L. Ralston et al for enrollment as citizens of the Cherokee Nation.

Cherokee D. 437.

Brief on behalf of the Cherokee Nation.

Robert D. Ralston, the father of these children, together with Robert L. Ralston, the oldest of these applicants, was admitted to citizenship in the Cherokee Nation on October 14, 1887; but the testimony shows that they never removed to the Cherokee Nation until February, 1899. The testimony further shows that after the admission of the said Robert D. Ralston he continued to reside in the state of Georgia, and took part and voted in all the elections, both state and municipal, and that he held the office of Chief of Police of the town of Dalton, Georgia, for a long time after his admission to citizenship in the Cherokee Nation. The father, Robert D. Ralston, was correctly rejected by the Commission on Rejected card No. 179, and it is difficult to conceive upon what theory the admission of these children is asked. None of them came to the Cherokee Nation until in 1899, the last three were not admitted in 1887, but were born since that time while their father was a citizen of the state of Georgia exercising all the rights of citizenship in that state of any other citizen, and holding the office of Chief of Police of the town of Dalton, Georgia. And in as much as it is conceded as an elementary principle of law that a person can not be a citizen of two states at one and the same time, and in as much as the father lived and exercised the rights of citizenship in the state of Georgia he must have been a citizen of that state, and hence could not have been at the time of their birth a citizen of the Cherokee Nation.

Field on International Law saYs: "One can not be at one and the same time a citizen of two states".

We are indebted to counsel for applicants for much good law upon this subject, When he quotes from Westlate as follows: "Legitimate children in whatever region or place theY maY be born are regular members of the state of which their parents form a part at the moment of their birth", and from Felois as follows: "The child is a part of the Nation to which his father belongs if the child is born in lawful wedlock, or to the Nation of its mother if the mother is not married", and from Field on International Law as follows: "A legitimate child wherever born is a member of the Nation of which its father ~~xxx~~ at the time of its birth was a member", and again from Field as follows: "It is well settled that everY individual must be a member of some societY or Nation".

"An infant can not ~~change~~ of his own accord change his domicil but it changes while the father is living with the domicil of the father". -- Amer. & Eng. EncY., page 868 and cases cited.

Now if these well settled principles are conceded, and if the Commission acted lefallY when it rejected Robert D. Ralston because of his continued residence and citizenship in the state of Georgia, then clearlY it must follow that the children born to him while residing in the state of Georgia and exercising those rights of citizenship must follow him, and were at the time oftheir birth citizens of the state of Georgia. And in as much as theY could not be citizens of two states at one and the same time theY therefore could not be enrolled as citizens of the Cherokee Nation.

Section 21 of the Curtis Bill which gives jurisdiction to this Commission provides: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship". This provision is so explicit and clear that it needs no explanation. The bill of which this provision forms a part was approved June 28, 1898, and the testimonY shows in this case that the applicants removed to the Cherokee Nation in FebruarY, 1899. There is no exception whatever made to minors in this provision. But counsel for applicants cited the act of the National Council approved December 4th, 1894, and claims that these children come within the provision of that Section, which is as follows: "That nothing in this act shall bar minors and orphans". Counsel seeks to place an erroneous construction upon this sentence. You will notice that there is no comma after the word "minors", and the onlY proper construction consistent with good law would be that the act did not bar minors who were orphans. The word "and" being a conjunctive conjunction. It clearlY means this, because the act of the father governs the child, and if the father has lived in a distant state the minor must of necessitY be a member of that same state; and in as much as we have shown that he could not be a citizen of both states this law would attempt to make him a citizen of both states. Again, suppose we leave out the word "minors" and saY that that provision of law should not bar orphans. Now an orphan person maY be fiftY Years old and still be an orphan, because of the death of his parents, and it was clearlY not intended to make an exception in behalf of orphans who were of legal age, and clearlY it was not intended to protect minors who were cared for bY their parents. Hence the onlY consistent construction which could be placed upon this act was that it was not intended to bar that class of orphan children who were minors. This construction harmonizes with this section of the Curtis Bill hereinabove quoted; and it is also in accord with the provisions of the general law on the question of citizenship. And we do not hesitate to submit it as the onlY proper construction to be placed upon that provision of the law.

RespectfullY submitted,

W W Hastings

AttorneYs for the Cherokee Nation.

W H M.

Cherokee D 437.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Robert L. Ralston, Violet L. Ralston, Lucy Ralston and Luke Ralston, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 26, 1900, Robert D. Ralston appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his four minor children, Robert L., Violet L., Lucy and Luke Ralston, as citizens by blood of the Cherokee Nation. Robert D. Ralston is differently classified and is not included in this decision.

The evidence shows that Robert L. Ralston was admitted with his father, Robert D. Ralston, and others, on October 13, 1887, to citizenship in the Cherokee Nation, by the duly constituted authorities of said Nation. He, with his father and the others included in this application, Violet L., Lucy and Luke Ralston, did not remove to and in good faith settle in the Cherokee Nation until February, 1899. Prior to that time the father of the applicants in this case had been a citizen of Georgia.

Robert L. Ralston and Violet L. Ralston are identified on the Cherokee Strip payment roll of 1894. Lucy Ralston and Luke Ralston were born on May 24, 1894 and July 10, 1896, respectively, and proper proof of their birth has been furnished this Commission.

Paragraph 9 of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship: , ..."

It is, therefore, the opinion of this Commission that the application for the enrollment of Robert L. Ralston, Violet L. Ralston, Lucy Ralston and Luke Ralston, as citizens by blood of the Cherokee Nation should be denied, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this ______________________.

IN THE DEPARTMENT OF THE INTERIOR.

---ooOoo---

In re)
Application of Robert L. Ralston :
for enrollment as a citizen by)
blood of the Cherokee Nation. :

---ooOoo---

MOTION FOR REVIEW.

Now comes the above named applicant, Robert L. Ralston, by his attorneys and moves that the decisions rejecting his application for enrollment be set aside and that a review and rehearing be granted and had for the following reasons:

This case is on all fours with that of Ora L. Camp (Bonds) decided by the Department on March 25, 1903, (I.T.D. 1418-1903). Ora L. Camp was admitted to citizenship December 10, 1887, and this applicant was admitted October 14, 1887. She came to the Nation in November, 1900, while he came to the Nation in February, 1899. She was more than twenty-one years of age when she came to the Nation, while he was only twelve years of age when he came -- he is only sixteen years of age now. Her name is on the 1896 census roll, while his name appears on the 1894 strip payment roll. The Department directed the enrollment of Ora L. Camp and we respectfully submit that under that decision Robert L. Ralston, this applicant, is also entitled to enrollment.

Respectfully submitted,

Harry G. Kimball

Wm. Henry White

Attorneys for Applicant.

aJM

Cherokee D-437
(R-458)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Robert L. Ralston as a citizen by blood of the Cherokee Nation.

--:--

DECISION.

The record in this case shows that on September 26, 1900, Robert D. Ralston appeared before the Commission at Vinita, Indian Territory and made application for the enrollment , among others, of Robert L. Ralston as a citizen by blood of the Cherokee Nation.

The record further shows that on July 12, 1902, this Commission rendered its decision, denying, among others, the application for the enrollment of Robert L. Ralston as a citizen by blood of the Cherokee Nation, and that said decision was approved by the Department. Departmental letter of January 6, 1904, (I.T.D. 9134-03), remanded this case for readjudication as to the rights of Robert L. Ralston.

The evidence herein shows that on October 13, 1887, by the properly constituted authorities, Robert L. Ralston was admitted, as a Cherokee by blood, to citizenship in the Cherokee Nation; that at the time of said admission the said Robert L. Ralston was but three months old, and that , before reaching his majority, namely, February 1899, the said Robert L. Ralston removed to the Cherokee Nation and has since continuously resided therein.

It is, therefore, the opinion of this Commission that, following the ruling of the Department in the case of Ora M. Camp, et al., (I.T.D. 1418-1902), Albert L. Halston should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED). T.B.Needles.
Commissioner.

(SIGNED). C.R.Breckinridge.
Commissioner.

Muskogee , Indian Territory,
this JAN 13 1905

Cherokee D 457 (R 488).

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Robert L. Ralston as a citizen by blood of the Cherokee Nation.

Motion for Review.

Comes now the Cherokee Nation and represents that the record of the testimony and the decision of the Commission to the Five Civilized Tribes of date January 13, 1905, admitting the applicant Robert L. Ralston to enrollment as a citizen by blood of the Cherokee Nation shows that he is the minor son of Robert D. Ralston and that Robert D. Ralston, with his minor son Robert L. Ralston, lived in the State of Georgia; that they were readmitted to citizenship in the Cherokee Nation on October 10, 1887; that the testimony and the commission's decision further finds that Robert L. Ralston was not removed to the Cherokee Nation until February, 1899. Under the decision of the Assistant Attorney General Hon. Frank L. Campbell of December 28, 1905 (I.T.D. 15216-1905), clearly this applicant is not entitled to be enrolled. He was ordered enrolled by the Commission on January 13, 1905, under the erroneous impression that the act of June 28, 1898, did not apply to minors. In the opinion of the Assistant Attorney General hereinabove referred to the following language is used:

> "As to the second request, I am unable to see that any distinction is to be made between adults and minors who failed to locate permanently in the Nation. While minors are excepted from operation of the act of the Cherokee National Council of December 4, 1894, no such exception in their favor has been made by any act of Congress. The act of June 28, 1898 (30 Stat., 495, 503) among other things provided that 'no person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship.' This provision is in the nature of both a limitation and a condition precedent to the right claimed, and is similar in purpose and effect to the limitation considered by this office in the opinion of June 8, 1901, in cases of Nancy E. Smith and Lottie B. Adams. As nothing existed in the legislation of Congress exempting minors or insane persons from its operation the limitation was held to operate upon t hem. The provision now under consideration is entirely alalegous; It was held operative against adults by my opinions of December 20, 1903 in case of Allie Williams and of March 12, 1904 in case of Mary L. Strickland, and, as to minors that is the

necessary implication and effect of my opinion of June 15, 1905 in the case of Alice L. Owens."

Further on the opinion concludes as follows:

> "I am therefore of opinion that the rule established in the decision in the case of Mary L. Strickland and Allie Williams as to adults and by necessary inference held applicable to children by the opinion of Alice L. Owens in [illegible] be followed."

In other words, the decision of the Assistant Attorney General in the above case holds that the act of June [illegible], 1898, applies to minors as well as adults and that no person, including a minor, could be enrolled who had not prior to June [illegible], 1898, removed to and in good faith settled in the nation in which he claimed citizenship.

Now, there is no contention in this case but that the applicant herein removed to and located in the Cherokee Nation in [illegible], 1898; the evidence shows it and the decision of the [illegible] so finds. For the reasons hereinabove assigned: First, [illegible] on [illegible] to the Five Civilized Tribes [illegible] law, and, second, that it was contrary to the opinion of the Assistant Attorney General hereinabove referred to, the Cherokee Nation respectfully moves that the case be reopened, reviewed and reversed, and that the Commissioner to the Five Civilized Tribes be directed to strike the name of the applicants from the final roll prepared for citizens of the Cherokee Nation by blood.

Respectfully submitted,

Attorney for the Cherokee Nation.

IN THE DEPARTMENT OF THE INTERIOR,

WASHINGTON, D. C.

---ooOoo---

In re)
Application of Robert L. Ralston :
for enrollment as a Citizen by)
blood of the Cherokee Nation. :

---ooOoo---

PROTEST OF THE CHEROKEE NATION.

Comes now the Cherokee Nation and respectfully protests against the motion for review filed in behalf of applicant in the above case and respectfully refers to the brief heretofore filed on part of the Cherokee Nation in said case.

This applicant nor his father never complied with the act of December 4, 1894: "Be it enacted by the National Council, that all persons who have been or who may hereafter be re-admitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Na ion within six months from the passage of this act, or from the date of re-admission of persons hereafter re-admitted, or no rights whatever shall accrue to such persons by reasons of such re-admission: provided, That nothing in this act shall bar minors and orphans."

Nor with the act of June 28, 1898: "No person shallbe enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship," and returned to the Cherokee Nation.

The Honorable Secretary of the Interior has repeatedly upheld the act of the Cherokee National Council of December 4, 1894, requiring all persons theretofore re-admitted to comply with its provisions.

Reference is respectfully made to the Cherokee enrollment case of Berley E. Geuy et al, and Allie Williams which were decided by the Honorable Secretary of the Interior, wherein the act of December 4, 1894 is upheld.

The testimony even shows that the father of the apllicant was an office-holder in the town of Dalton, Georgia, that he voted at all elections; and continued to exercise all the rights of citizenship in the State of Georgia.

We contend therefore, that the motion for review filed by the applicant should not be sustained but that same should be denied by the Honorable Secretary of the Interior.

Respectfully,

W W Hastings JCA

Attorney for the Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D-437.

Muskogee, Indian Territory, July 12, 1902.

W. W. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith inclosed the decision of the Commission to the Five Civilized Tribes, rejecting the application of Robert D. Ralston for the enrollment of his four minor children, Robert L., Violet L., Lucy and Luke Ralston, as citizens by blood of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. H-2.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 437.

Muskogee, Indian Territory, August 12, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of July 12, 1902, rejecting the application for the enrollment of Robert L., Violet L., Lucy and Luke Ralston, as citizens of the Cherokee Nation, was affirmed by the Secretary of the Interior on July 29, 1902.

Very respectfully,

Tams Bixby

Acting Chairman.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O BEALL,
Secretary

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee
R 658

Muskogee, Indian Territory, January 13, 1905

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated January 13, 1905, granting the application for the enrollment of Robert L. Ralston, et al., as citizens by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman

Encl. R 83

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LAND
38684-1906

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

May 26, 1906.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to enclose a letter from the Commissioner to the Five Civilized Tribes, dated April 26, 1906, transmitting the record of the application for enrollment as a citizen by blood of the Cherokee Nation of Robert L. Ralston.

January 13, 1905, the Commission to the Five Civilized Tribes decided favorably to the applicant.

The record shows that on September 26, 1900, Robert D. Ralston appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of, among others, his minor child, Robert L. Ralston as a citizen by blood of the Cherokee Nation; that on July 12, 1902, the Commission rejected among others the application for this child and on July 29, 1902 (ITD 4473-1902) the decision was approved by the Department; that on January 6, 1904 (ITD 9134-1903) the Department rescinded its decision adverse to the applicant and remanded the case for readjudication; that on January 13, 1905 the Commission again rendered its decision granting the application for the enrollment of Robert L. Ralston referring to the case of Ora M. Camp (ITD 1418-1903) and his name appears at No. 32419 on a schedule of citizens by blood of the Cherokee Nation approved by the Department April 25, 1905.

The Commissioner now encloses a motion on behalf of the Cherokee Nation for review of the Cherokee enrollment case of Robert L. Ralston and recommends that the motion be granted.

In view of the record and of the decision in the case of Nellie Walker Litton, et al., of January 3, 1906 (18212-1905) the approval of the Commissioner's recommendation of April 26, 1906 is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

[illegible]

C

D.C. 45905 (COPY) G.B.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 4473-1902.
9892-1906.

FHE.

October 18, 1906.

Y.P.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

April 26, 1906, you transmitted a motion for rehearing made by the attorney for the Cherokee Nation in the matter of the application of Robert B. Ralston for the enrolment of his minor son, Robert L. Ralston, whose name appears opposite No. 32419 upon the partial roll of Cherokee Indians by blood approved by the Acting Secretary of the Interior on April 25, 1905.

January 13, 1905 the Commission to the Five Civilized Tribes held, in accordance with departmental ruling of March 25, 1903 (I.T.D 1416), in the case of Ora M. Bonds, nee Camp, that Robert L. Ralston should be enroled as a citizen by blood of the Cherokee Nation.

The record shows that Robert B. Ralston and his minor child Robert L. Ralston were duly admitted to citizenship by an act of the Cherokee Council on October 13, 1887, at which time the father, Robert B. Ralston, was a citizen of the State of Georgia, and his minor child, Robert L. Ralsten, was then one year old; that the father with his minor children did not actually remove to the Cherokee Nation until February 1899.

In accordance with the approved opinion of the Assistant Attorney-General for this Department, dated September 24, 1906 (I.T.D.18742), in the case of Ora M. Bonds nee Camp, and James M. Camp, for enrolment as citizens by blood of the Cherokee Nation, wherein it was hold that paragraph 9, of section 21 of the act of Congress approved June 28, 1898, providing that

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

applies to minors as well as to adults, the motion for review is hereby granted, and the decision of the Commission to the Five Civilized Tribes of January 12, 1905, admitting Robert L. Ralston to enrolment as a citizen by blood of the Cherokee Nation, is hereby reversed, and the Department reaffirms its former decision of July 29, 1902 (I.T.D.4473), denying the application for the enrolment of Robert L. Ralston as a citizen by blood of the Cherokee Nation.

In accordance herewith you are requested to strike from the approved partial roll of April 25, 1905, of Cherokee Indians by blood in your possession, the name of Robert L. Ralston, whose name appears opposite No. 32419 thereon. The Department has this day taken similar action upon the partial roll in its possession and has requested the Indian Office to take the same action on the proper roll in its possession.

You are further requested to ascertain whether deeds in allotment have been executed in favor of Robert L. Ralston, and if so, to withhold the same from delivery to allottee and forward the same to this Department for action thereon.

A copy of Indian Office letter of May 26, 1906 (Land 386[illegible]), recommending that the motion for review be granted, is inclosed.

Respectfully,

Thos. Ryan

1 inclosure. Acting Secretary.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
10854

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 26, 1906

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of Departmental letter of October 15, 1906, granting your motion for a review of the application of Robert D. Ralston for the enrollment of his child, Robert L. Ralston, as a citizen by blood of the Cherokee Nation, and reversing the decision of the Commission to the Five Civilized Tribes Dated January 13, 1905, admitting said child to enrollment, and affirming the Department's decision of July 29, 1902, denying the application for the enrollment of said child as a citizen by blood of the Cherokee Nation. The name of ssaid child has been stricken from the approved roll of citizens by blood of the Cherokee Nation.

For your information there is enclosed herewith a copy of Departmental decision of October 15, 1906.

Respectfully,

Commissioner

L M B
Encl . B-5

43

IN THE MATTER OF THE APPLICATION OF

Robert L. Ralston, et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Cher D 438

Cher D 438

D438

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900
ACTING CHAIRMAN

9/25/1900

Lucinda Miller.

See D420

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 26th, 1900.

IN THE MATTER OF THE APPLICATION OF William W. Russell, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A William W. Russell.
Q What is your age? A Thirty nine.
Q What is your Postoffice? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation?
A By intermarriage.
Q For whom do you apply for enrollment? A Myself, wife and children.
Q What is the name of your wife? A Lucinda Miller.
Q Her name was Lucinda Miller before you married her? A Yes sir.
Q What is her age? A Twenty or twenty one.
Q When did you marry her? A January 4th, 1895.
Q Have you a certificate of marriage? A Yes sir.
The applicant presents a marriage license, duly authenticated, and a certificate of marriage, certifying that he was married to one, Lucinda Miller, a citizen of the Cherokee Nation, on the 4th day of January, 1895; said marriage license and certificate being in due form.
Q What is the name of your wifes father? A Rufus Miller.
Q Is he living? A Yes sir.
Q What is the name of her mother? A Hannah .
Q Is she living? A Yes sir.
Q What are the names of your children, Mr. Russell.?
A Lucy C.
Q How old is she? A Five.
Q What is the name of the next one? A Frank.
Q Has he any middle name? A No sir.
Q How old is Frank? A Ten months.
Q Just two? A Yes sir.
Q Are these children living and living with you at this time?
A Yes sir.
Q How long have you been living in the Cherokee Nation?
A Seven years.
Continuously A Yes sir.
Q Have you any proof of birth as to this youngest child with you?
A No sir.

(1896 Roll, Page 521, #2555, Lucinda C. [illegible], Delaware D'st)
(1896 Roll, Page 537, #412, William W. Russell, Delaware D'st)
(1896 Roll, Page 521, #2556, Lucy Clara Russell, Delaware D'st)
Q The names of your wife's father and mother do not appear upon the authenticated rolls of 1880, do they? A No sir.
Q How long have you been living in the Cherokee Nation?
A Seven years.
Q How long has your wife been living here? A All her life, I reckon.
Q You have no proof of birth as to the youngest child? A No sir.

The name of William W. Russell appears upon the census roll of 1896. He avers that he was married to one, Lucinda Miller, on the 4th day of January, 1895, and presents satisfactory proof of said marriage, more particularly described in the testimony. The name of his child, Lucy C. appears upon the census roll of 1896.
He avers that the name of his wife's father is Rufus Millern and the name of his wife's mother is Hannah Miller: Upon an examination of the rolls, it is found that their names appear upon the census rolls of 1896; they having been enrolled by this Commission upon a Doubtful Card: No satisfactory proof being made as to the citizenship of the said Lucinda Miller, final judgment as to the

application of the said William W. Russell for the enrollment of himself, wife and children will be suspended, and their names will be placed upon a Doubtful Card. It will also be necessary for the said applicant to present to this Commission satisfactory proof of birth of the younger child, Frank, now ten months old. Decision as to enrollment in this case will depend upon the decision as to the enrollment of the mother of said Lucinda, his (applicant's) wife, and the father, Rufus Miller, whose names appear upon Doubtful Card No. 480.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me
this 27th day of September, 1900.

COMMISSIONER.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 20th, 1902.

In the matter of the application of William W. Russell for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife, Lucinda Russell, and his children, Lucy C., Frank and David C. Russell, as citizens by blood of the Cherokee Nation.

Supplemental to D-438.

WILLIAM W. RUSSELL, being duly sworn, testified as follows:--
Examination by the Commission.

Q. What is your name? A. William W. Russell.
Q. How old are you? A. 41.
Q. What is your post office? A. Centralia.
Q. Are you a white man? A. Yes, sir.
Q. Are you claiming the right to be enrolled as a citizen by intermarriage? A. Yes, sir.
Q. What is your wife's name? A. Lucinda.
Q. Is she a Cherokee by blood? AL Yes, sir.
Q. How long has your wife Lucinda been living in the Cherkee Nation?
A. All her life.
Q. When were you married to her? A. January 4th, 1895.
Q. Were you married under a Cherokee marriage license?
A. Yes, sir.
Q. Is Lucinda your first wife? A. No, sir.
Q. How often have you been married before? A. Once.
Q. What is your first wife's name? A. Mary Susan.
Q. Was she a Cherokee by blood? A. No, sir.
Q. Was she dead when you married Lucinda? A. Yes, sir.
Q. Had your wife Lucinda ever been married before? A. No, sir.
Q. You are her first husband? A. Yes, sir.
Q. Have you and your wife Lucinda lived together ever since you were married? A. Yes, sir.
Q. Have you ever been separated? A. No, sir.
Q. Are you living together now? A. Yes, sir.
Q. Have you made your home since 1895 in the Cherokee Nation?
A. Yes, sir.
Q. Never lived anywhere else, have you? A. No, sir.
Q. How many children have you? A. Three.
Q. Are they all living? A. Yes, sir.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 16th day of December, 1902.

B. C. Jones
Notary Public.

Cherokee D-4[illegible].

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of William W. Russell for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Lucinda Russell, and his three minor children, Lucy C., Frank and David C. Russell, as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 2[illegible], 1900, William W. Russell appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Lucinda Russell, and his two minor children, Lucy C., and Frank Russell, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October [illegible], 19[illegible]. The proceedings had in the matter of the application for enrollment of Rufus Miller, et al., Cherokee Doubtful No. [illegible], at Vinita, Indian Territory, on September 2[illegible], 1900, and at Muskogee, Indian Territory, on January 10, 1901, and February 26, 1902, are filed with and made a part of the record herein.

The evidence shows that the said William W. Russell, a white man, was lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, on January 4, 18[illegible], to Lucinda Miller, a Cherokee by blood, a daughter of Rufus Miller, a native of the Cherokee Nation. The name of Lucinda Miller cannot be identified on the Cherokee authenticated tribal roll of 1880, nor is the name of her father, Rufus Miller, found on that roll, it appearing from the evidence taken in the case of Rufus Miller that he was absent in Missouri on a visit at the time the roll of 1880 was made. The said Lucinda Russell is named, with others of her family, in an Act of the National Council of the Cherokee Nation, approved December 31, 1890, under the terms of which the parties therein named were each paid $15.[illegible], the amount found to be due under the per capita payment of 1880. The said Lucinda Russell is identified on the Cherokee pay roll of 18[illegible], on the Cherokee census roll of 1880, on the Cherokee pay roll of 1880, on the Cherokee strip payment roll of 1894, and on the Cherokee census roll of 1896. Her husband, William W. Russell, and their child, Lucy C. Russell, are identified on the Cherokee census roll of 1896. Two children, Frank and David C. Russell, were born on December 2, 1899, and December 30, 1901, respectively, and are identified by birth affidavits made a part of the record herein.

The evidence further shows that the said Lucinda Russell has lived in the Cherokee Nation almost all her life, and that her husband, William W. Russell, has lived with her in said Nation continuously since his marriage to her, up to and including September 1, 1902. It is considered that the minor children applicants herein have lived continuously in the Cherokee Nation from the time of their birth.

It is, therefore, the opinion of this Commission that William W. Russell should be enrolled as a citizen by intermarriage, and that Lucinda Russell, Lucy C. Russell, Frank Russell and David C. Russell, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.

Acting Chairman.

(SIGNED). T. B. Needles.

Commissioner.

(SIGNED). C. R. Breckinridge.

Commissioner.

Dated at Muskogee, Indian Territory,

this FEB -7 1903

COMMISSION
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-438

Muskogee, Indian Territory, February 7, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, granting the application of William W. Russell for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Lucinda, and his three minor children, Lucy C., Frank and David C. Russell, as citizens by blood, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-824

1

N THE MATTER OF THE APPLICATION OF

William W. G. Russell et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sept 26, 1900
B Memo of application
C. Marriage License.
D. Certificate of marriage
E. Birth affidavit, Frank Russell
F Notice of final consideration 2/27/02

[illegible]

Cancelled and transferred to Cherokee No. [illegible]

See Cherokee Jacket D 440

Cher D 439

Cher D 439

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 10 1900
ACTING CHAIRMAN

D439

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF BRADLEY CORDREY FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN.

The said Bradley Cordrey, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please.
A Bradley Cordrey.
Q How old are you? A Twenty-four.
Q What is your post office? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Who is it you want to have put on the roll A Just myself
Q Are you a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A About one-eighth.
Q How long have you lived in the Cherokee Nation? A I have lived here about four years.
Q How did you acquire your citizenship? Were you admitted by the Cherokee Commission? A No, sir.
Q Who were you admitted by? A I had an application sent in before the Dawes Commission.
Q And did they admit you? A I think they did.
Q What is your father's name? A Neal Cordrey.
Q Is he dead or alive? A Dead.
Q How long has he been dead? A Fifteen or sixteen years
Q Your mother's name? A Sarah.
Q Is she dead or alive? A She is dead.
Q How long has she been dead? A About the same time; there wasn't but a month's difference in the time of their death.
Q Was your mother a Cherokee? A No, sir.
Q A white woman? A Yes, sir.
Q Your father was a Cherokee was he? A Yes, sir.
Q Where did you live before you came here? A In Texas.
Q Are you on any roll of the Cherokee Nation? A Yes, sir
Q What roll? A 1880 Roll.
Q You are? A Yes, sir.
Q Any other roll? A I think I am on the roll of 1883 or 1884, I think.
Q Are you on the 1894 or 1896 roll? A No, sir.
Q You did not draw strip money? A No, sir.
Q Are your father and mother on the 1880 roll? A My father is on the 1880 roll. My mother was not.
Q When did you apply to the Dawes Commission for admission?
A In 1896 or 1897.
Q Did you never hear anything about it? A No, sir.

1880 Roll, page 580, No. 807, Bradley Cordry, Illinois District.

Q Where were you born? A Born in the Nation here.
Q How old were you when you went to Texas? A About eight years old.
Q And you staid there until four years ago? A Yes, sir.
Q And then came back here? A Yes, sir.
Q And you have been here ever since? A Yes, sir.

THE COMMISSIONER: The applicant is identified on the roll of 1880. He states that he moved to Texas when eight years of age, and lived there continuously until four years ago, at which time he came to the Cherokee Nation, and has lived in the Cherokee Nation ever since that date. The record shows that he applied to the Dawes Commission, in a petition filed August 24th, 1897, for admission to Cherokee citizenship, but the date being too late for the Commission to exercise jurisdiction, no action was taken upon his application. At present his application will be placed upon a doubtful card for the further consideration of the Commission.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application fo enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 10th day of October A. D. 1900.

Commissioner.

H.f.L.

Cherokee D 439

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Bradley Cordrey for the enrollment of himself as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 26, 1900, Bradley Cordrey appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation.

The evidence shows that the said Bradley Cordrey, twenty-four years of age at the time of his application, was born in the Cherokee Nation and lived there until eight years of age, when he removed to Texas. He returned to the Cherokee Nation in 1896, one year before attaining his majority, and has lived in the Cherokee Nation ever since that year. The said Bradley Cordrey is identified on the Cherokee authenticated tribal roll of 1880 as a native Cherokee and his name appears upon the Cherokee Roll of 1883.

It is, therefore, the opinion of this Commission that Bradley Cordrey should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this AUG 11 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES
C R BRECKINRIDGE

ALLISON L AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 439.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Bradley Cordrey for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision, granting the application of Bradley Cordrey. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 10.

I THE MATTER OF THE APPLICATION OF

Bradley Gordney

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

a. Original testimony Sept. 26, 1900

B. Memo. of application

Notice of final consideration 2/27/02

Receipt for testimony

Order closing testimony, Feb. 27, 1902

Sept 12, 1902 In accordance with decision of Aug 11, 1902 transferred to Cherokee [illegible]

Cher D 440

Cher D 440

D440

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible] 1900
CHAIRMAN

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T., SEPTEMBER 25th, 1900.

IN THE MATTER OF THE APPLICATION OF Francis Hicks and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Francis Hicks.
Q What is your age? A Forty three.
Q What is your Postoffice? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation?
A By adoption.
Q By intermarriage you mean? A Yes sir.
Q For whom do you apply for enrollment? A Myself and family.
Q Your wife? A My wife is a Delaware.
Q And children? A Yes sir.
Q What was your wifes name before she was married? A Lucinda O. Miller.
Q What is her age? A Born in 1866. Thirty four years old I suppose.
Q When were you married? A In 1888.
Q Have you a certificate of marriage? A I have the preacher's statement here.

The applicant presents a certificate of marriage, certifying that he was married on the 1st day of Febuary, 1888, to one, Lucinda Miller, by William Adams, a Minister of the Gospel.

Q What is the name of your wifes father? A Andrew Miller.
Q Is he living? A No sir.
Q What is the name of her mother? A Sallie Miller.
Q Is she living? A No sir.
Q Do you claim to be a white man? A No sir; I am a Wyandotte.
Q What are the names of your children? A Alfred F.
Q How old is he? A Ten yearsold.
Q What is the name of the next one? A Earnest.
Q How old is Earnest? A Seven years old.
Q Next one? A Esther B.
Q How old is she? A Four weeks old.

The applicant presents satisfactory proof of birth as to his youngest child, Esther B..

Q Are these children all living and living with you? A Yes sir.
Q How long have you been living in the Cherokee Nation?
A I came here in 1879, and married in 1888.
Q Have you been living here ever since? A Yes sir.
Q Your wife also? A Yes sir.

(1880 Roll, Page 139, #1871, Lucinda Miller, Cooweescoowee D'st)
(1896 Roll, Page 371, #5003, Frank Hicks, Cooweescoowee D'st)
(1896 Roll, Page 371, #5004, Lucinda O. Hicks, Cooweescoowee)
(1896 Roll, Page 371, #5006, Alfred F. Hicks, Cooweescoowee D'st)
(1896 Roll, Page 371, #5007, Earnest Hicks, Cooweescoowee D'st)

By Mr. W. W. Hastings, Cherokee Representative:
Q Where did you live in 1880? A Here in Cooweescoowee.
Q How long have you been living here? A I came here in 1879.

By the Commission:
The name of Francis Hicks appears upon the census roll of 1896, and he presents proof of his marriage, more particularly described in the testimony, certifying that he was married to one, Lucinda O. Miller, a Cherokee citizen by blood in 1888. The name of Lucinda O. Miller appears upon the authenticated roll of 1880 as Lucinda Miller; also upon the census roll of 1896, as Lucinda O. Hicks, her present name; The names of his children, Alfred F. and Earnest appear upon the census roll of 1896, and he presents satisfactory proof of birth as to his youngest child, Esther B., they being duly identified according to the page and number of the rolls as indicated in the testimony. The said Lucinda O. Hicks, and her children,

as enumerated herein will be duly listed for enrollment as Cherokee citizens of [illegible] blood.

The said [illegible] relies in his application for citizenship as an intermarried Cherokee, Section [illegible], Page [illegible] of the Revised Laws of the Cherokee Nation Revised in 1892.

Final judgment as to the enrollment of the said Francis Hicks as a Cherokee citizen by intermarriage will be suspended, and his name will be placed upon a Doubtful Card, the testimony showing that he obtained no marriage license.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, that he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Cravens

Subscribed and sworn to before me
this 28th day of September, 1900.

COMMISSIONER.

Wpe
D 440

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Francis Hicks, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission and an opportunity would be given him to introduce any additional testimony affecting his application.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, the case is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee D-440.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 27, 1902.

In the matter of the application of Francis Hicks for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Francis Hicks.

Q How old are you, Mr. Hicks? A Let's see;- I was born in '57,- forty-five.

Q What is your postoffice address? A Ruby.

Q Are you an applicant for enrollment as a citizen by blood? A No, I am Wyandotte.

Q You are an applicant for enrollment as a Wyandotte Indian? A Yes sir.

Q What is your wife's name? A Lucinda.

Q Is she living? A She is living; she is Delaware.

Q She is a citizen of the Cherokee Nation of Delaware blood? A Yes sir.

Q When were you married to your wife, Lucinda? A '85.

Q You were married by a preacher were you? A Yes sir.

Q Just as one Indian marries another? A Yes sir.

Q The Wyandottes is a tribe of Indians up in the northeast part of the territory? A Yes sir.

Q You were a member of that tribe of Indians before you married her? A Yes sir. When the Dawes Commission was at Vinita they wanted a statement when I was dropped from the roll. I was dropped from the roll in '82. They were going to investigate it and they never said anything about it.

Q Were you ever married before you married this wife? A No sir.

Q Was she ever married before? A No sir.

Q You have lived together ever since your marriage? A Yes sir.

Q Never separated? A No sir.

Q Were you living together on the first day of September, 1902? A Yes sir, I come in the Cherokee Nation in '79; I married in '85.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 13th day of December, 1902.

B. O. Jones
Notary Public.

Cherokee D-440.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Francis Hicks for enrollment as a citizen of the Cherokee Nation.

DECISION.

The record in this case shows that on September 26, 1900, Francis Hicks appeared before the Commission at Bartlesville, Indian Territory, and made personal application for the enrollment, among others, of himself as a citizen of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 27 and October 27, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that Francis Hicks was lawfully married on February 1, 1885, to Lucinda Miller, a citizen of the Cherokee Nation of Delaware blood. The said Francis Hicks is identified on the Cherokee Census Roll of 1896.

The evidence further shows that the said Francis Hicks is a Wyandotte Indian by blood, and that he was a member of the Wyandotte Tribe of Indians in the Indian Territory at the date of his marriage to his wife, Lucinda.

Section 670 of the Compiled Laws of the Cherokee Nation (1892) provides:

> "Whereas quite a number of our own citizens have intermarried with Indians, members of other tribes of this Territory, and it has always been the custom of the Cherokee people to recognize such marriages as lawful until the taking of the last census, when their rights as citizens were called in question; therefore, any Indian, a member of any of the tribes of this Territory who has married, or shall hereafter marry a Cherokee, a citizen of this Nation at the time of such marriage, in accordance with the law regulating marriage between native citizens thereof, shall be, and is hereby deemed a Cherokee to all intents and purposes, and entitled to the rights of other Cherokees."

It is, therefore, the opinion of this Commission that Francis Hicks should be enrolled as a citizen of the Cherokee Nation, under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495) with all the rights of a native Cherokee, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Sig.) Tams Bixby.
Acting Chairman.

(Sgd.) T. B. Needles.
Commissioner.

(Sgd.) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this MAR - 2 1903

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee D-440

Muskogee, Indian Territory, March 12, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, granting the application of Francis Hicks for the enrollment of himself as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant.

Respectfully,

Chairman.

Enc. M-1621

IN THE MATTER OF THE APPLICATION OF

Francis Hicks

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

D-12-11-02

A. Original testimony, Sept. 26. 1900
B. Memo. of application
C. Marriage Certificate
D. Letter from Indian Agt. Quapaw Agcy.
E. Notice of final consideration 2/27/02

Order closing testimony 2/27/02
By [illegible] D letter
Cancelled and transferred to
Cherokee No 10[illegible]
See Delaware
Jacket No 99.

Cher D 441

Cher D 441

D441

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
FILED
SEP 27 1906

[illegible]

[illegible] ward.

[illegible]

[illegible] Almy [illegible]

[illegible]

[illegible] Clerk of [illegible] District [illegible] April 17 18[illegible] [illegible] citizen; and [illegible]

[illegible]

[illegible] of the [illegible] on the roll [illegible] in the [illegible] fall of 1896 [illegible]; the [illegible] citizens [illegible] on the roll of 1896; they are living at this time; [illegible] evidence of their [illegible] then [illegible] objection to the enrollment [illegible]

[illegible] D. Gr[illegible]on, being first duly sworn, states that as [illegible] or to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this 27 day of Sept 1900.

C R Breckinridge
Commissioner.

2441

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 8 1900
ACTING CHAIRMAN

Supplemental Testimony to go with D Card #441.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 1st, 1900.

Supplemental testimony in the matter of the application of Veda and Eva Welch for enrollment as citizens of the Cherokee Nation.

RANDOLF BALLARD, being sworn and examined by Commissioner C.R. Breckinridge, testified as follows:

Q Give your name? A Randolf Ballard.
Q Your post office? A Needmore.
Q Youwant to offer some additional testimony in regard to two orphan children, do you? A Yes, sir.
Q Is this relatted to Veda and Eva Welch? A Yes, sir.
Q You want to show their mother was admitted to Cherokee citizenship by the Cherokee Commission, do you? A Yes, sir.

The applicant presents an official transcript of the records of the Cherokee Commission on Citizenship, showing that Nannie V. Landrum, 22 years of age, was admitted to Cherokee citizenship by the Cherokee Commission, on September 9th, 1889. This is filed herewith.

Q This Nannie V. Landrum was the mother of these children? A Yes, sir.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transdript of his stenographc notes thereof.

JORosson

Subscribed and sworn to before me this third day of October, 1900.

Commissioner.

Cherokee D 441

aab

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Veda E. and Eva A. Welch as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 26, 1900, Randolph Ballard appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of Veda E. and Eva A. Welch, two orphan children in his charge, as citizens by blood of the Cherokee Nation.

On October 1, 1900, at the same place further evidence in the above application was submitted to the Commission. The evidence shows that the said Veda E. and Eva A. Welch are the orphan children of Nannie V. Welch, nee Landrum. Nannie V. Landrum was admitted to citizenship in the Cherokee Nation by a Cherokee Commission on citizenship on September 9, 1889. She was married to Joseph Welch on April 17, 1889. Veda E. and Eva A. Welch are identified on the Cherokee Census roll of 1896. Both their parents are dead.

In making rolls of citizenship of the Cherokee Nation this Commission is governed by the provisions of paragraph 1, Section 21, of the Act of Congress approved June 28, 1898 (30 Stats.,495).

It is therefore the opinion of this Commission that Veda E. and Eva A. Welch are lawfully entitled to be enrolled as members by blood of the Cherokee tribe of Indians in Indian Territory, and that the application for their enrollment should be granted, and it is so ordered.

Cherokee D 421

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

Acting Chairman,

Commissioner,

C. R. Breckinridge

Commissioner,

Dated at Muskogee, Indian Territory,

this MAY 20 1902

Henry L. Dawes
Tams Bixby
Thomas B. Needles
C. R. Breckinridge

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

D. 441.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Veda E. and Eva A.. Welch as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-441.

IN THE MATTER OF THE APPLICATION OF

Veda E. Welch et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sept. 26, 1900
B. Memo. of application
C. Supplemental testimony Oct 1, 1900
D. Copy, Record Citizenship Comm
E. Marriage License & Certificate

Sept 17, 1902 Cancelled and transferred [illegible]

Cher D 442

Cher D 442

D442

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 27 1900
Acting Chairman.

[illegible] Interior,
Commission to the [illegible] Tribes,
[illegible], I.T., [illegible] 1[illegible], 1[illegible].

[illegible] Hill [illegible] for the [illegible] 7 children [illegible]

Q [illegible] A Hill[illegible], [illegible].
Q [illegible] A [illegible]7
Q [illegible] A [illegible].
Q [illegible] district do you live in? A Delaware.
Q [illegible] on the roll? A [illegible] wife
[illegible].
Q [illegible] A [illegible] sir.
Q [illegible] A Shawnee.
Q [illegible] portion of Indian blood? A Half.
Q [illegible] license or certificate? A Yes sir.
([illegible])
[illegible]: [illegible] presents duly authenticated Cherokee [illegible] Clerk of Delaware District [illegible] between him [illegible] Annie Chouteau [illegible]; the certificate shows [illegible] married in accordance with said license on the 17th [illegible] by the Rev. Charles [illegible];
[illegible].
Q [illegible] still living? A Yes sir.
Q [illegible] lived [illegible] since your marriage?
A [illegible]
Q And [illegible] continuously? A Yes sir.
Q How old is your wife? A About forty-two.
Q Is she a native of the Cherokee Nation? A Yes sir
Q [illegible] A [illegible] came with the [illegible] in 1871
Q What district was she enrolled in 1880? A I don't think
she was enrolled.
Q [illegible] in 1880? A She wasn't here. She
[illegible]; her father [illegible] there.
Q [illegible] A I guess so, about that.
Q [illegible] A I [illegible]; I
[illegible] there, [illegible] here [illegible] the fall of 1880.
[illegible]: [illegible] applicant presents certificate of marriage [illegible] justice of [illegible], of Johnson County, State of Kansas, showing that in accordance with United States law he married [illegible] 1877; this is filed herewith.
Q You married your wife in 1877 in Kansas, and then you brought her down here in 1880? A Yes sir.
Q And have been living here ever since? A Yes sir
Q [illegible] 1880? A I [illegible], not [illegible].
Q Did [illegible] A No sir, I wasn't here.
[illegible] claim [illegible] as her residence in 1880?
A Yes sir.
Q What district did she [illegible] live in? A Delaware.
Q Give me her father's name. A [illegible] Chouteau.
Q Is [illegible] living? A Alive.
Q Her mother's name? A [illegible].
Q Is [illegible] or alive? A Dead.
Q [illegible], more than 20 years? A Yes sir 25 years I guess.
Q Is her father on the roll of 1880? A I don't know.
Q Did he claim [illegible] at that time? A Yes sir, he said he was enrolled there.
Q Did he come in 1871? A Yes sir.

[illegible]

[illegible] A (Applicant [illegible]) [illegible] follows:

[illegible]

[illegible] citizenship in Kansas [illegible]

[illegible]

[illegible] married.

[illegible]

[illegible] The applicant applies for the enrollment of himself [illegible] that his wife is on the [illegible] roll of 1871; [illegible] here with her father in 18 71, [illegible] of some eight or nine [illegible] property in Kansas, although for the last 16 or 18 years he and his wife have lived continuously in the Cherokee Nation.
He married her first, as shown, under United States law, and on March 17, [illegible] married her under Cherokee law; he states that he never exercised the rights of citizenship outside the Cherokee Nation after

his marriage under Cherokee law; xxxxxxxx but that since that date he has lived with his wife continuously in the Cherokee Nation. [illegible] 1898, [illegible] over since [illegible] applicant [illegible] fall of 1896 [illegible] [illegible] will be [illegible] for Cherokee citizenship.

[illegible] identified [illegible] [illegible] to have [illegible] white [illegible] [illegible] wife in the [illegible] Cherokee Nation.

[illegible] correctly recorded the [illegible] foregoing is a true and complete [illegible] thereof.

M D Green

[illegible]

C. N. [illegible]

[illegible]

COMMISSION

1902

"R"

D 442

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of William L. Singleton, for the enrollment of his wife and children as citizens of the Cherokee Nation:

Applicant was notified by registered letter on February 11, 1902, and his application for the enrollment of himself, wife and children as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and on this day, to-wit: the 27th day of February, 1902, the applicant appears in person and by his agent J. R. Sequichie.

Is there any statement you desire to make in this case ?

Mr. Sequichie: No sir, it is all fully brought out in the testimony.

The Commission: The agent for the applicant and the representative of the Cherokee Nation present, submit this case to the Commission, and the same is ordered closed and reported to the Commission for a decision based upon the evidence now of record.

E. C. Bagwell, on oath states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
NOV 17 1902
ACTING CHAIRMAN.

Cher
Supp'l to D 442

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 14, 1902.

In the matter of the application of WILLIAM L. SINGLETON, for the enrollment of himself as a citizen by intermarriage, and his wife ANNIE SINGLETON, and his children, DOLLY, FRANK, HENRY, JOHN, DOCK, ROSA and CHARLEY SINGLETON, as citizens of the Cherokee Nation, of Shawnee blood:

WILLIAM L. SINGLETON, being duly sworn and examined by the Commission to the Five Civilized Tribes, testified as follows:

Q What is your name ? A William L. Singleton.
Q What is your age at this time ? A Fifty nine.
Q What is your post office ? A Pleera.
Q Are you the same William L. Singleton that applied to this Commission for enrollment as an intermarried citizen in September, 1900 ? A Yes sir.
Q What is your wife's name ? A Annie.
Q Is she a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q She is a Shawnee isn't she ? A Yes sir.
Q When were you married to your wife Annie ?
A In 1881.
Q Where ? A In the Cherokee Nation.
Q Were you married to her under a Cherokee marriage license ?
A Yes sir.
Q Have you filed your license with the Commission ?
A Yes sir.
Q Were you ever married before you were married to your wife Annie ? A Yes sir.
Q How many times were you married before ? A Twice.
Q What was your first wife's name ? A Laura.
Q Was she a white woman ? A Yes sir.
Q Was your first wife dead when you married Annie ?
A Yes sir.
Q What was your second wife's name ? A Mary.
Q Was she a white woman or a Cherokee ? A A white woman.
Q Was she living or dead when you married Annie ? A Dead.
Q Had your wife Annie ever been married before she married you ?
A No sir.
Q She was your third wife ? A Yes sir.
Q And you were her first husband ? A Yes sir.
Q Have you and your wife Annie lived together continuously from the time you were married in 1881 up to the present time ?
A Yes sir.
Q You have never been separated ? A No sir.
Q Living together on the first day of September, 1902, as husband and wife, were you ? A Yes sir.
Q Have you lived in the Cherokee Nation all the time since you were married to your wife Annie ? A Yes sir.
Q Has she lived in the Cherokee Nation with you for the same time ?
A Yes sir.
Q Are these children, Dolly, Frank, Henry, John, Dock, Rosa and Charley, all your children by your wife Annie ?
A Yes sir.
Q Are these children all living at this time ? A Yes sir.
Q Have they lived in the Cherokee Nation all their lives?
A Yes sir.

E. C. Bagwell, on oath, states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 13, 1902.

B C Jones
Notary Public.

Cherokee D-442.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William L. Singleton as a citizen by intermarriage, and of Annie Singleton, and their seven minor children, Dolly, Frank, Henry, John, Dock, Rosa and Charley Singleton, as citizens of the Cherokee Nation of Shawnee blood.

DECISION.

-ooOoo-

The record in this case shows that on September 26, 1900, William L. Singleton appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife, Annie Singleton, and their minor children, Dolly, Frank, Henry, John, Dock, Rosa and Charley Singleton, as citizens of the Cherokee Nation of Shawnee blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 14, 1902.

The evidence in this case shows that William L. Singleton was lawfully married on December 18, 1877, in accordance with the laws of the State of Missouri, to Annie Chouteau, and subsequent thereto he was remarried to his said wife under authority of a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation, on March 17, 1881. Prior to his marriage to his said wife, Annie, it appears that he had been married twice, and both of those wives were dead at the time of his marriage to his present wife.

The evidence further shows that his said wife is identified under the name of Annie Chouteau on a certain register of names of those who located in the Cherokee Nation under the terms of the treaty concluded between the Cherokee Nation and the Shawnee tribe of Indians on June 7, 1869, and approved by the President of the United States on June 9, 1869. As a result of this marriage the minor children, applicants herein, were born. The applicants herein are identified on the Cherokee census roll of 1896, except Charley Singleton, who was born subsequent to the making of said roll, and is duly identified by an affidavit of birth made a part of the record herein.

The evidence further shows that William L. Singleton has lived with his said wife Annie, in the Cherokee Nation continuously from his marriage to her up to and including September 1, 1902. The minor children, applicants herein, have resided in said Nation all their lives.

It is, therefore, the opinion of this Commission that William L. Singleton should be enrolled as a citizen by intermarriage of the Cherokee Nation, and Annie Singleton, [illegible] Singleton, Frank Singleton, Henry Singleton, John Singleton, Jack Singleton, Rosa Singleton and Charley Singleton should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

(SIGNED) T. B. Needles
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this JAN 15 1903

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-442.

Muskogee, Indian Territory, January 15, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 15, 1903, granting the application of William L. Singleton for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Annie Singleton, and his seven minor children, Dolly, Frank, Henry, John, Dock, Rosa and Charley Singleton, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

~~Act'g Chairma~~n.
Commissioner in Charge.

Enc. H-7.

D 1

N THE MATTER OF THE APPLICATION OF

William L. Singleton et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Sept 26. 1900
B Memo of application
C Marriage License
D Certificate of marriage.
E Birth affidavit - Charley Singleton

F Notice of final consideration 2/27/02
G Order closing testimony 2/27/02.

F

Cher D 443

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 17 1902
ACTING CHAIRMAN.

To be filed in D 443

D 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T. September 25, 1900.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Rufus Miller.
Q How old are you? A About 51 or 2.
Q What is your post office address? A Ruby.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A Half.
Q For whom do you applybfor enrollment? A For myself, wife and children.
Q What is the name of your wife? A Hannah J. Miller.
Q What is her age? A About 44.
Q When were you married to her? A 1867.
Q Have you been living with her continuously ever since? A Yes sir
Q She is alive now? A Yes sir.
Q Is your wife a white woman? A Yes sir.
Q What are the names of your children under 21? A Joshua D., about 14.
Note: Applicant hands list to Com'r being list of Children's names, and Com'r reads:
Sarah Ann, 11 years old; Elizabeth; 8 years old; William A. 4 years old;
Q Are these children all alive and living with you at this time?
A Yes sir.
Applicant: I am not on the 1880 roll.
Q By what right do you claim citizenship? A I went on a visit to see my wife's people in the State and never got back in time for the enrollment.
Q When did you get back? A I got back in the fall of 1884.
Q What state were you living in? A Missouri.
Q Never were re-admitted? A I never moved out.
Q You were never re-admitted? A No sir.
1896 roll page 505 #2080 Rufus Miller, Delaware District.
Q Have you a certificate of marriage to your wife Hannah? A No sir
Q Have you proof of marriage? A No sir.
1896 roll page 5081 #353 as Hanna J. Miller, Delaware District.
1896 roll page 505 #2083 Joshua D. Miller. " "
1896 roll page 505 #2084 Sallie Ann Miller " "
1896 roll page 505 #2085 Elizabeth Miller " "
1896 roll page 505 #2086 William A. Miller " "

Examined by Cherokee Representative W. W. Hastings:

Q When did you go to Missouri? A I went in the spring of 1880.
Q Where did you live in 1880 before you went? A Flint.
I was born in Goingsnake.
Q Lived there all your life until the spring of 1880? A I was born in Goingsnake, in the spring before the old immigrant payment I don't know nowhere else as a home, nor nowhere else, because I was born and raised here, and never been nowhere else for a home.
Q Did you ever live out up to 1880? A No sir, never lived nowhere else.
Q Where were you married? A In Missouri.
Q When? A In 1877.
Q What part of Missouri? A Neosho.

Q How did you become acquainted with your wife in Neosho if you never were up therme? A I did'nt say I never was up there, I never lived there.

Q How long were you up there? A I just went backwards and forwards; I have been to Missouri several times.

Q How long had you been up there when you married in 1877? A I had'nt been up there but a little while.

Q How long do you call a little while? A Two or three months.

Q What were you doing up there in Missouri? A I was at work up there once and a while. And went home, and back up there.

Q Had you ever worked up there bbefore that time? A No sir.

Q When was the first time you ever went from the Cherokee Nation to Missouri to work? A 1877

Q You married, and how long did you live up there before you brought your wife to the Cherokee Nation? A I brought her back that fall.

Q Were you married in the spring? A In July.

Q When did you go back to work there, after the fall of 1877?

A I went up there in the spring of 1880 on a visit and of course while I was up there I had to work for a living? A

Q You visited four years up there did'nt you? A No sir.

Q Did you testify a while ago that you came back here in 1884?

A No sir I did'nt, I said in the fall of 1880.

Q You went there in the spring of 1880 and came back in the fall of 1880, is that your testimony? A I come back in the fall of 1877.

Q You say you went up there again in the spring of 1880? A Yes

Q When did you come back that time? A In the fall of 1880?

A Yes sir.

Q When did you go back up there any more? A I have'nt been back there since.

Q What were you doing while you were up there? A I was at work mining and jobbing around at anything I could get to do for a living

Q Have you ever worked out of the Cherokee Nation since the fall of 1880? A No, I dont know that I ever did.

Q Dont you know? A No, I know I did'nt.

Q Your wife's people living now? A They are dead.

Q When did they die? A They died two years ago in the Cherokee Nation; they moved back here, after they moved back here then we never had no more business to visit in the State.

Com'r Needles: The name of Rufus Miller appears upon the census roll of 1896; he avers that he was married to one Hannah J. Miller, a white person, in the year 1877, but presents no certificate of marriage; the name of his wife also appears upon the census roll of 1896; the names of his children, Joshua D. Sarah A., Elisabeth and William A. appear upon the census roll of 1896; the name of the applicant does not appear upon the authenticated roll of 1880, and he makes no satisfactory proof as to his Cherokee citizenship, also satisfactory proof as to his residence; final judgment as to the application of said Rufus Miller for the enrollment of himself, wife Hannah J. and children will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this 26 day of September 1900.

C. R. Breckinridge, Commissioner.

I, the undersigned, as stenographer to the Commission to the Five Civilized Tribes, being first duly sworn, state that the above is a true and correct copy of the original transcript.

Ella Mieling

Subscribed and sworn to before me this 17 day of May 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 27 1902
ACTING CHAIRMAN

To be filed in D 443

D 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T, September 25, 1900.

In the matter of the application for the enrollment of Rufus Miller.

James J. Paden, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A James F. Paden.
Q What is your age? A 47
Q What is your post office address? A Fairland.
Q Do you know Rufus Miller? A Yes sir.
Rufus Miller: Do you knew me to be a Cherokee? A Yes sir, always been recognized as a Cherokee.
Commissioner Needles: By who? A By all the Cherokees, I have known him all my life about.
Q Why is'nt he on the roll of 1880 if he is a recognized Cherokee?
A No sir, I dont know that, since we were both grown he has lived right in the neighborhood with me for fifteen years.
Mr. W. W. Hastings, Representative of the Cherokee Nation: What district was that? A In Delaware District.
Q Did you know him before 1880? A Yes sir.
Q Where did you know him then? A In Flint district.
Q Did you live near him then? A Yes sir.
Q Was he a recognized citizen of the Cherokee Nation? A Yes sir, that was when we were boys, his folks was recognized as Cherokees and him too.
Q When did you move from Flint? A I life (left) there sometime in the seventies.
Q Did you know him from the time you left up to now; after you left when did you next know him? A I never saw him any more until he moved here.
Q About how long a space between? A It must have been eight or ten years.
Q Was there ever any dispute about his citizenship down there?
A No sir.
Q Any up here? A No sir, not that I ever heard of.

M. L. Paden, being sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A M. L. Paden.
Q What is your age? A 34
Q What district do you live in? A Flint.
Q Do you know Rufus Miller? A I used to know him, yes, sir.
Q How long since you have known him? A 20 or 25 years I guess.
Q What do you know about his Cherokee citizenship? A I know the family are Cherokees; I know his father was always known to be a Cherokee.
Q What degree of blood is this Rufus Miller? A I dont know.
Q What degree of blood is his father? A I dont know sir.
Q His mother? A I did'nt never know his mother?
Q Did you know the reason his name is not on the roll of 1880 as a recognized Cherokee citizen? A No sir.
Mr. W. W. Hastings: How far did you live from him down in Flint? or his folks? A I presume about five or six miles.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

C
Bruce Jones.

Sworn and subscribed to before me this the 28th of September 1900.
T.B. Needles, Commissioner.

I, the undersigned, as stenographer to the Five civilized Tribes, being first duly sworn, state that the above is a true copy of the original transcript.
Ella Mi

Subscribed and sworn to before me this 17th day of May [illegible]
Notary Public.

D 443

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 26, 1900.

In the matter of the application of John H. Miller for the enrollment of himself and wife as citizens of the Cherokee Nation; said Miller being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name?A John H. Miller.
Q What is your age?A 20.
Q What is your post office address? A Ruby.
Q What district do you live in ? A Cooweescoowee .
Q Are you a recognized citizen of the Cherokee Nation?A Yes,sir.
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A One quarter.
Q For whom do you apply for enrollment ? A Myself and wife.
Q What is the name of your father?A Rufus.
Q Is he living? A Yes, sir.
Q The name of your mother?A Hannah Jane.
Q What is the name of your wife? Annie.
Q Is she white person? A Yes, sir.
Q What was her name bef ore you married her? A Mahoney.
Q When did you marry her? A 13th day of last may, 1900.
Q What is the name of your children?A I haven't got any.
Q Is your name on the authenticated roll of 1880? A No, sir,I do not thin it is.
Q What is your wife's age?A 16.
1896 enrollment; page 503, #2081, John Henry Miller, Delaware.

Q How long have you livedin the Cherokee Nation? A Ever since I was born.
Q Is your father Cherokee by blood?A Yes, sir.
Q Your mother? A No, sir.

Com'r Needles:--The name of John H. Miller is found upon the census roll of 1896. His name does not appear upon the authenticated roll of 1880. He applies as a citizen through his father, Rufus Miller, whose name does not appear upon the authenticated roll of 1880, but does appear upon the census roll of 1896; consequently final judgment as to the enrollment of the said John H. Miller as a Cherokee citizen by blood will be suspended andhis name will be placed upon a doubtful card, and reference is made as to the testimony of his father Rufus Miller, whose name also was placed upon a doubtful card, #429.

Applicant applies for the enrollment of his wife, Annie, as a Cherokee citizen by intermarriage. He avers that he was married to her,her name being one annie Mahoney, in the year 1900. Said marriage occurred too late under Cherokee law for white persons who intermarry citizens to acquire citizenship, consequently the application for the enrollment of his wife, Annie, Will be refused.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 28th day of September, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 17 1902
ACTING CHAIRMAN.

To be filed in D 445

D - 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. January 10, 1901.
In the matter of the application of Rufus Miller.
SUPPLEMENTAL TESTIMONY.

Commissioner Needles: Applicant, Rufus Miller, appears and files proof of marriage.
Interrogated by W. W. Hastings, Cherokee representative.
Q How old did you say you were? A I could'nt say just how old I am.
Q Were you ever arrested for anything? A Yes sir.
Q When? A Along about '75.
Q By whom? A There's a man got me to get some horses for him-
Q By whom, under process of what court? A Cherokee Court.
Q Flint district? A Goingsnake district.
Q Were you tried in 1875? A Yes sir.
Q By that court? A Yes sir.
Q What was the result of that trial? A ~~No sir~~They convicted me.
Q What became of you then? A They took me then to Fort Smith on the same charge.
Q What did you do there? A I never done anything there.
Q Why? A I dont know why.
Q Did you stand your trial? A No sir.
Q Did you give bond? A Yes sir.
Q Did you jump that bond? A Yes sir.
Q And fled from the country? A No sir, I was just scouting around.
Q You were scouting in 1880? A No sir, I was'nt.
Q How long were you scouting around? A For three or four years, three years I guess.
Q You were scouting in 1880? A When I was married I was scouting.
Q That's how you come to be up in Missouri? A Yes sir.
Q That's how you come to get acquainted with your wife up there?
A Yes sir.
Q You were scouting in 1880, weren't you? A I don't believe I was.
Q Are you positive on that point? A I wont be positive, I dont hardly recollect, I dont hardly think I was.
Commissioner:
Q Was'nt that the reason your name was'nt on the roll of 1880?
A No sir, I had done been back home, and went to Missouri again.
By W. W. Hastings:
Q Did you ever come back and stand your trial down there? A They never did arrest me, and never tried me any more.
Q Did you ever live in Eureka Sprins, Arkansas? No sir.
Q Was you ever in Arkansas scouting? A No sir never was farther than Fayetteville. I was born within three miles of the line, and I have been in the State a good deal of my life.
Commissioner
Q I understand you to say, you lived continuously in the Cherokee Nationever since 1880? A Yes sir ever since 1880.
Q Your children, they born in the Cherokee Nation? A Yes sir, all but two, I had two born in the States. My wife would go back and be confined.
Q Your wife would go back and be confined? A Yes sir.
Q You were living in the Cherokee Nation [illegible] at this time? A Yes sir, never did live out of the Cherokee Nation; always had property and place here in the Cherokee Nation.
Q What degree of blood are you? A Half.
Q Your mother and father Cherokees? A Both half Cherokees.
Q You never applied to be re-admitted? A No sir, never did in my life.

E. G. Rothenberger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the supplementary testimony in the above case, and that the foregoing is a full true and correct transcript of his stenographic notes in said case.

E. G. Rothenberger.

Subscribed and sworn to before me this 11th day of January, 1901.

C. R. Breckinridge, Commissioner.

I, the undersigned, as stenographer to the Commission to the Five Civilized Tribes, do certify, being first duly sworn, that the above and foregoing is a true and correct copy of the original transcript.

Ella Mielenz

Subscribed and sworn to before me this 17 day of May, 1902.

Notary Public.

Reuter

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 17 1902

ACTING CHAIRMAN

To be filed in D 443

D 429

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. February 26, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as citizens of the Cherokee Nation. The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. The applicant this day appears in person.

Cherokee Nation represented by W. W. Hastings.

RUFUS MILLER, the applicant, being duly sworn, testified as follows.

COMMISSION: What is your name? A Rufus Miller.
Q How old are you? A Dont know my age just exactly.
Q What is your post office address, where do you live? A At Centralia.
Q That in the Cherokee Nation? A Yes sir.
Q You have changed your address since you appeared before the Commission the last time? A Yes sir. Ruby was the post office for a while, I get letters there yet.
Q Well, what is your post office address? A Well, just put it back to Ruby, my place is right there.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q Do you desire to make any statement relative to your application in your own behalf and in behalf of your wife and children? A Why I dont know that I could any more than I have made.
Q You submit the case to the Commission for final consideration?
A Why I guess so, all I can do, all I wants is just justice.

The applicant and the Representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Croninger.

Subscribed and sworn to before me this 27th day of February 1902.
T. B. Needles, Commissioner.

I, the undersigned, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the above copy and that the same is a full and correct copy of the original transcript.

Ella Mieling

Subscribed and sworn to before me this 17th day of May, 1902.

Notary Public.

"R"

D 443

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of John H. Miller, for the enrollment of himself and child as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself and child as citizens of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission, either in person or by attorney and an opportunity would be given him to introduce any further testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, the case is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

x 543.

COMMISSION TO THE FIVE CIVILIZED TRI
FILED
JUN 23 1902
ACTING CHAIRM

D-641.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., June 13, 1902.

In the matter of the application of Nancy Icklebury et al for enrollment as citizens by blood of the Cherokee Nation.

APPEARANCES:
Applicant appears in person.
W. W. Hastings in behalf of Cherokee Nation.

COMMISSION: The applicant in this case was notified by registered letter May 31, 1902, to appear before the Commission on or before June 14, 1902, for the purpose of introducing further testimony in the matter of the application of herself for the enrollment of her children as citizens by blood of the Cherokee Nation.

NANCY ICKLEBURY, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Nancy.
Q Nancy Icklebury? A Yes, sir.
Q How old are you? A I am 27.
Q What is your postoffice address? A Ochelata.
Q How many children have you? A Five.
Q What is the name of your oldest child by your present husband? A John Stealer.
Q Stealer or Steal? A It's either one I guess.
Q Now which is it; we have got to have one or the other; you said when you made application for enrollment that the name of the children by your first husband was Steal, is that correct? A I reckon it is.
Q Now how do you want these children by your first husband enrolled, under the name of Steal or Stealer? A Stealer I reckon.
Q How many children have you by your present husband? A Two.
Q What is the name of the oldest child by your present husband? A Nellie.
Q About how old is that child? A Two years old.
Q When was it born? A December 3rd.
Q What year; was it 1900? A I guess, I don't know.
Q When will the child be two years old? A It's done two past.
Q When will it be three years old? A Three next December.
Q Well then it was born in 1899 wasn't it? A I guess so.
Q Did you ever have a child named Nealy by your husband Icklebury, you have only had two children by your husband Icklebury haven't you? A Yes, sir, that's all.
Q What is the name of the second child that you had by him? A Pearl.
Q Is that the child you have in your arms there, is that Pearl? A Yes, sir.

J. G. ICKLEBURY, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Icklebury, J. G. Icklebury.
Q How old are you? A I am - I don't know exact.
Q Well about how old? A About 28 years old.
Q 28 or 38? A 38.
Q What's your postoffice address? A Ochelata.
Q You are the husband of the applicant, are you? A Yes, sir.
Q What's the name of her first husband? A Well all of her folks told me it was Steal and different parties told me Stealer.
Q Do you know which it was? A Well I think Stealer is the right name, because that's what her uncle told me the other day, that it

was Stealer.

Nancy Icklebury, the applicant, recalled;

COMMISSION: Now when you appeared before the Commission at Bartlesville in October, 1900, you stated that you had a child named Nealy Icklebury; now was that correct, or did you mean that that child's name was Nellie Icklebury; did you ever have a child named Nealy? A No, sir, I never.
Q You have only had two children by this husband? A Yes, sir.
Q And the names of those two children are Nellie and Pearl? A Yes, sir.
Q It was a mistake then when you said that this child's name was Nealy, and you meant it should be Nellie, did you? A I reckon so.
Q Now you stated at the time you appeared before the Commission at Bartlesville that the name of the children by your former husband was Steal; you were mistaken were you not, and their correct name is Stealer? A Yes, sir.
Q The correct name is Stealer is it? A Yes, sir.
Q You desire to have them enrolled under that name? A Yes, sir.

The applicant's three children by her former husband, to wit, John, William and Myrtle Steal, will be listed for enrollment under the name of Stealer. It appears from the original testimony had in the matter of the application of Nancy Icklebury for the enrollment of herself and children that she and the two elder children, to wit, John and William, are identified on the Census Roll of 1896 under the name of Stealer.

MR. HASTINGS: What was your mother's name, Lucinda? A Yes, sir.
Q She married Jacob Dick? A Yes, sir.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 18th day of June, 1903.

Notary Public.

Cherokee D 443

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES. Jd. S. i.

In the matter of the application of John H. Miller for the enrollment of himself and his minor child, Noma E. Miller, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 26, 1900, John H. Miller appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation. The application included his wife, but, as she is differently classified, she is not embraced in this decision. A copy of the testimony taken in the case of Rufus Miller, et al., Cherokee Doubtful Case No. 420, is filed with this case and reference is had thereto.

The evidence shows that the said John H. Miller, twenty years of age at the time of this application, is the son of a native Cherokee, Rufus Miller, whose name does not appear upon the authenticated tribal roll of 1880, because he was absent from the Cherokee Nation at the time that roll was made. It appears that the said John H. Miller was named, with other members of his family, in an Act of the National Council approved December 31, 1890, authorising the payment to John H. Millerof the sum of $15.58, found to be due under the per capita payment of 1880. Upon an examination of the rolls of the Cherokee Nation in the possession of this Commission it is found that the said John H. Miller is identified on the Cherokee Pay Roll of 1884, on the Cherokee Census Roll of 1890, on the Cherokee Pay Roll of 1890, on the Cherokee Strip Payment Roll of 1894, and the Cherokee Census Roll of 1896. On March 19, 1901, a female child, Noma E. Miller by name, was born to John H. Miller and his lawful wife, Anna Miller, and proper proof of her birth has been furnished this Commission.

The evidence further shows that the said John H. Miller has lived in the Cherokee Nation ever since his birth and it is considered that his child, Noma E. Miller, has lived continuously in the Cherokee Nation from the time of her birth.

It is, therefore, the opinion of this Commission that John H. Miller and Noma E. Miller should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE CHAIRMAN
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 443.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of John H. Miller for the enrollment of himself and his minor child, Noma E. Miller, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 82.

D 4[illegible]

IN THE MATTER OF THE APPLICATION OF

John H. Miller

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony Sep 26-1900

B. Memo of application Sep 26-1900

C. Marriage license and cert.

D. Birth cert of [illegible] E Miller

Notice of final consideration 2/27/02

F. Order closing testimony 2/27/02

See Cherokee Jacket D420, D4.4, R161 R182

Cher D 444

Cher D 444

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 17 1902
ACTING CHAIRMAN.

To be filed in D 444

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T. September 25, 1900.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Rufus Miller.
Q How old are you? A About 51 or 2.
Q What is your post office address? A Ruby.
Q In what district do you live? A Cooweescoowee.
Q Are ypu a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A Half.
Q For whom do you applybfor enrollment? A For myself, wife and children.
Q What is the name of your wife? A Hannah J. Miller.
Q What is her age? A About 44.
Q When were you married to her? A 1867.
Q Have you been living with her continuously ever since? A Yes sir
Q She is alive now? A Yes sir.
Q Is your wife a white woman? A Yes sir.
Q What are the names of your children under 21? A Joshua D., about 14.
Note: Applicant hands list to Com'r being list of Children's names, and Com'r reads:
Sarah Ann, 11 years old; Elizabeth; 8 years old; William A. 4 years old;
Q Are these children all alive and living with you at this time?
A Yes sir.
Applicant: I am not on the 1880 roll.
Q By what right do you claim citizenship? A I went on a visit to see my wife's people in the State and never got back in time for the enrollment.
Q When did you get back? A I got back in the fall of 1884.
Q What state were you living in? A Missouri.
Q Never were re-admitted? A I never moved out.
Q You were never re-admitted? A No sir.
1896 roll page 505 #2080 Rufus Miller, Delaware District.
Q Have you a certificate of marriage to your wife Hannah? A No sir
Q Have you proof of marriage? A No sir.
1896 roll page 5081 #353 as Hana J. Miller, Delaware District.
1896 roll page 505 #2083 Joshua D. Miller. " "
1896 roll page 505 #2084 Sallie Ann Miller " "
1896 roll page 505 #2085 Elizabeth Miller " "
1896 roll page 505 #2086 William A. Miller " "

Examined by Cherokee Representative W. W. Hastings:

Q When did you go to Missouri? A I went in the spring of 1880.
Q Where did you live in 1880 before you went? A Flint.
I was born in Goingsnake.
Q Lived there all your life until the spring of 1880? A I was born in Goingsnake, in the spring before the old immigrant payment I don't know nowhere else as a home, nor nowhere else, because I was born and raised here, and never been nowhere else for a home.
Q Did you ever live out up to 1880? A No sir, never lived nowhere else.
Q Where were you married? A In Missouri.
Q When? A In 1877.
Q What part of Missouri? A Neosho.

Q How did you become acquainted with your wife in Neosho if you never were up therse? A I did'nt say I never was up there, I never lived there.
Q How long were you up there? A I just went backwards and forwards; I have been to Missouri several times.
Q How long had you been up there when you married in 1877? A I had'nt been up there but a little while.
Q How long do you call a liitle while? A Two or three months.
Q What were you doing up there in Missouri? A I was at work up there once and a while. And went home, and back up there.
Q Had you ever worked up there bbefore that time? A No sir.
Q When was the first time you ever went from the Cherokee Nation to Missouri to work? A 1877
Q You married, and how long did you live up there before you brought your wife to the Cherokee Nation? A I brought her back that fall.
Q Were you married in the spring? A In July.
Q When did you go back to work there, after the fall of 1877?
A I went up there in the spring of 1880 on a visit and of course while I was up there I had to work for a living? A
Q You visited four years up there did'nt you? A No sir.
Q Did you testify a while ago that you came back here in 1884?
A No sir I did'nt, I said in the fall of 1880.
Q You went there in the spring of 1880 and came back in the fall of 1880, is that your testimony? A I come back in the fall of 1877.
Q You say you went up there again in the spring of 1380? A Yes
Q When did you come back that time? A In the fall of 1880?
A Yes sir.
Q When did you go back up there any more? A I have'nt been back there since.
Q What were you doing while you were up there? A I was at work mining and jobbing around at anything I could get to do for a living
Q Have you ever worked out of the Cherokee Nation since the fall of 1880? A No, I dont know that I ever did.
Q Dont you know? A No, I know I did'nt.
Q Your wife's people living now? A They are dead.
Q When did they die? A They died two years ago in the Cherokee Nation; they moved back here, after they moved back here then we never had no more business to visit in the State.

Com'r Needles: The name of Rufus Miller appears upon the census roll of 1896; he avers that he was married to one Hannah J. Miller, a white person, in the year 1877, but presents no certificate of marriage; the name of his wife also appears upon the census roll of 1896; the names of his children, Joshua D. Sarah A., Elisabeth and William A. appear upon the census roll of 1896; the name of the applicant does not appear upon the authenticated roll of 1880, and he makes no satisfactory proof as to his Cherokee citizenship, also satisfactory proof as to his residence; final judgment as to the application of said Rufus Miller for the enrollment of himself, wife Hannah J. and children will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.
M. D. Green.

Subscribed and sworn to before me this 26 day of September 1900.
C. R. Breckinridge, Commissioner.

I, the undersigned, as stenographer to the Commission to the Five Civilized Tribes, being first duly sworn, state that the above is a true and correct copy of the original transcript.

Ella [illegible]

Subscribed and sworn to before me this 17 day of May 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 17 1902
ACTING CHAIRMAN

To be filed in D 444

D 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T. September 25, 1900.

In the matter of the application for the enrollment of Rufus Miller.

James J. Paden, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A James P. Paden.
Q What is your age? A 47
Q What is your post office address? A Fairland.
Q Do you know Rufus Miller? A Yes sir.
Rufus Miller: Do you know me to be a Cherokee? A Yes sir, always been recognized as a Cherokee.
Commissioner Needles: By who? A By all the Cherokees, I have known him all my life about.
Q Why is'nt he on the roll of 1880 if he is a recognized Cherokee?
A No sir, I dont know that, since we were both grown he has lived right in the neighborhood with me for fifteen years.
Mr. W. W. Hastings, Representative of the Cherokee Nation: What district was that? A In Delaware District.
Q Did you know him before 1880? A Yes sir.
Q Where did you know him then? A In Flint district.
Q Did you live near him then? A Yes sir.
Q Was he a recognized citizen of the Cherokee Nation? A Yes sir, that was when we were boys, his folks was recognized as Cherokees and him too.
Q When did you move from Flint? A I life (left) there sometime in the seventies.
Q Did you know him from the time you left up to now; after you left when did you next know him? A I never saw him any more until he moved here.
Q About how long a space between? A It must have been eight or ten years.
Q Was there ever any dispute about his citizenship down there?
A No sir.
Q Any up here? A No sir, not that I ever heard of.

M. L. Paden, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A M. L. Paden.
Q What is your age? A 34
Q What district do you live in? A Flint.
Q Do you know Rufus Miller? A I used to know him, yes, sir.
Q How long since you have known him? A 20 or 25 years I guess.
Q What do you know about his Cherokee citizenship? A I know the family are Cherokees; I know his father was always known to be a Cherokee.
Q What degree of blood is this Rufus Miller? A I dont know.
Q What degree of blood is his father? A I dont know sir.
Q His mother? A I did'nt never know his mother?
Q Did you know the reason his name is not on the roll of 1880 as a recognized Cherokee citizen? A No sir.
Mr. W. W. Hastings: How far did you live from him down in Flint? or his folks? A I presume about five or six miles.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

C
Bruce Jones.

Sworn and subscribed to before me this the 28th of September 1900.
T.B. Needles, Commissioner.

I, the undersigned, as stenographer to the Five civilized Tribes, being first duly sworn, state that the above is a true copy of the original transcript.
Ella [illegible]

Subscribed and sworn to before me this 17th day of May [illegible].
Notary Public

D444

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900
ACTING CHAIRMAN

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 26, 1900.

In the matter of the application of John Eli for the enrollment of himself and wife as citizens of the Cherokee Nation; said Eli being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Eli.
Q What is your age, Mr. Eli? A 23.
Q Your post office address ? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Adopted citizen, by intermarriage.
Q What is the name of your wife? A Mary Ellen.
Q You apply for her enrollment by blood? A Yes, sir.
Q What was her name before you married her? A Ellen Miller.
Q What was the name of her father? A Rufus Miller.
Q The name of her mother? A Hannah.
Q Are they living? A Yes, sir.
Q How old is your wife? A 17.
Q When did you marry her? A 29th day of July, 1900.
Q How long have you lived in the Cherokee Nation? A About five years.
Q How long has your wife lived in the Cherokee Nation? A All her life.
Q Do you apply for yourself? A I do not know.

1896 enrollment; page 503, #2082, Mary Ellen Miller, Delaware.

Com'r Needles:--Applicant apples for the enrollment of himself and wife. He avers that he was married to one Ellen Miller, a citizen by blood, in the year 1900, and that she is the daughter of Rufus and Hannah Miller, and he claims Cherokee citizenship for his wife through her father, Rufus. The name of his wife's father and mother do not appear upon the authenticated roll of 1880, but do appear upon the census roll of 1896. Their names have been placed by this Commission heretofore upon doubtful card No.420, and reference is made to said card in this application. Consequently final judgment as to the enrollment of said Ellen Miller, will be suspended and her name will be placed upon a doubtful card, as was that of her father and mother.

Applicant applies for the enrollment of himself, and avers that he was married to said Ellen Miller in the year 1900, he bing a non-resident. Said marriage having occurred to late under the laws of the Cherokee Nation for white persons to acquire citizenship by intermarriage with Cherokee citizens by blood, consequently the application of said John Eli for enrollment will be rejected.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 28th day of September, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 17 1902
ACTING CHAIRMAN.

To be filed in D 444

D - 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. January 10,m1901.
In the matter of the application of Rufus Miller.
SUPPLEMENTAL TESTIMONY.

Commissioner Needles: Applicant, Rufus Miller, appears and files proof of marriage.

Interrogated by W. W. Hastings, Cherokee representative.

Q How old did you say you were? A I could'nt say just how old I am.

Q Were you ever arrested for anything? A Yes sir.

Q When? A Along about '75.

Q By whom? A There's a man got me to get some horses for him-

Q By whom, under process of what court? A Cherokee Court.

Q Flint district? A Goingsnake district.

Q Were you tried in 1875? A Yes sir.

Q By that court? A Yes sir.

Q What was the result of that trial? A They convicted me.

Q What became of you then? A They took me then to Fort Smith on the same charge.

Q What did you do there? A I never done anything there.

Q Why? A I dont know why.

Q Did you stand your trial? A No sir.

Q Did you give bond? A Yes sir.

Q Did you jump that bond? A Yes sir.

Q And fled from the country? A No sir, I was just scouting around.

Q You were scouting in 1880? A No sir, I was'nt.

Q How long were you scouting around? A For three or four years, three years I guess.

Q You were scouting in 1880? A When I was married I was scouting.

Q That's how you come to be up in Missouri? A Yes sir.

Q That's how you come to get acquainted with your wife up there? A Yes sir.

Q You were scouting in 1880, weren't you? A I don't believe I was.

Q Are you positive on that point? A I wont be positive, I dont hardly recollect, I dont hardly think I was.

Commissioner:

Q Was'nt that the reason your name was'nt on the roll of 1880?
A No sir, I had done been back home, and went to Missouri again.

By W. W. Hastings:

Q Did you ever come back and stand your trial down there? A They never did arrest me, and never tried me any more.

Q Did you ever live in Eureka Sprins, Arkansas? No sir.

Q Was you ever in Arkansas scouting? A No sir never was farther than Fayetteville. I was born within three miles of the line, and I have been in the State a good deal of my life.

Commissioner

Q I understand you to say, you lived continuously in the Cherokee Nationever since 1880? A Yes sir ever since 1880.

Q Your children, they born in the Cherokee Nation? A Yes sir, all but two, I had two born in the States. My wife would go back and be confined.

Q Your wife would go back and be confined? A Yes sir.

Q You were living in the Cherokee Nation at this time? A Yes sir, never did live out of the Cherokee Nation; always had property and place here in the Cherokee Nation.

Q What degree of blood are you? A Half.

Q Your mother and father Cherokees? A Both half Cherokees.

Q You never applied to be re-admitted? A No sir, never did in my life.

E. G. Rothenberger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the supplementary testimony in the above case, and that the foregoing is a full true and correct transcript of his stenographic notes in said case.

F. G. Rothenberger.

Subscribed and sworn to before me this 11th day of January, 1901.

C. R. Breckinridge, Commissioner.

I, the undersigned, as stenographer to the Commission to the Five Civilized Tribes, do certify, being first duly sworn, that the above and foregoing is a true and correct copy of the original transcript.

Ella [illegible]

Subscribed and sworn to before me this 17 day of May, 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 17 1902
ACTING CHAIRMAN

To be filed in D 444
D 420

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. February 26, 1902.

In the matter of the application of Rufus Miller for the enrollment of himself, wife and children as citizens of the Cherokee Nation. The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. The applicant this day appears in person.

Cherokee Nation represented by W. W. Hastings.

RUFUS MILLER, the applicant, being duly sworn, testified as follows.

COMMISSION: What is your name? A Rufus Miller.

Q How old are you? A Dont know my age just exactly.

Q What is your post office address, where do you live? A At Centralia.

Q That in the Cherokee Nation? A Yes sir.

Q You have changed your address since you appeared before the Commission the last time? A Yes sir. Ruby was the post office for a while, I get letters there yet.

Q Well, what is your post office address? A Well, just put it back to Ruby, my place is right there.

Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.

Q Do you desire to make any statement relative to your application in your own behalf and in behalf of your wife and children? A Why I dont know that I could any more than I have made.

Q You submit the case to the Commission for final consideration?
A Why I guess so, all I can do, all I wants is just justice.

The applicant and the Representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Croninger.

Subscribed and sworn to before me this 27th day of February 1902.

T. B. Needles, Commissioner.

I, the undersigned, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the above copy and that the same is a full and correct copy of the original transcript.

Lella Whiling

Subscribed and sworn to before me this 17th day of May, 1902.

Notary Public.

D4114

CIVILIZED TRIBES
FILED
1902

"R"

D 444

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Mary Ellen Eli, for the enrollment of herself and daughter as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that her application for the enrollment of herself and child as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902, and that she could on said date appear before the Commission, either in person or by attorney, and an opportunity would be given her to introduce any further testimony affecting her application.

Receipt has been acknowledged of the Commission's letter.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that the case be closed, and reported to the Commission final decision based upon the evidence now of record.

Commissioner.

Cherokee D 444

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES.

H.E.L.

In the matter of the application for the enrollment of Mary Ellen Eli and her minor child, Goldie Eli, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 26, 1900, John Eli appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his wife, Mary Ellen Eli, as a citizen by blood of the Cherokee Nation. The application included John Eli, but, as he is differently classified, he is not embraced in this decision. Affidavits as to the birth of Goldie Eli were filed July 10, 1901. A copy of the testimony taken in the case of Rufus Miller, et al. Cherokee Doubtful Case No. 420, is filed with this case and reference is had thereto.

The evidence shows that Mary Ellen Eli, seventeen years of age at the time of this application, is the daughter of a native Cherokee, Rufus Miller, whose name does not appear upon the Cherokee authenticated tribal roll of 1880 because he was absent from the Cherokee Nation at the time that roll was made. Upon examination of the rolls of the Cherokee Nation in the possession of this Commission it is found that Mary Ellen Eli is identified on the Cherokee Pay Roll of 1886, on the Cherokee Census Roll of 1890, on the Cherokee Pay Roll of 1890, on the Cherokee Strip Payment Roll of 1894, and on the Cherokee Census roll of 1896. Her child, Goldie Eli, born May 25, 1901, is too young to be on any roll but she is identified by birth affidavit on file with this Commission.

The evidence further shows that the said Mary Ellen Eli has lived in the Cherokee Nation all her life, and it is considered that her child, Goldie Eli, has lived continuously in the Cherokee Nation from the time of her birth.

It is, therefore, the opinion of this Commission that Mary Ellen Eli and Goldie Eli should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 444.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of John Eli for the enrollment of his wife, Mary Ellen Eli, and his minor child, Goldie Eli, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 83.

D 444

IN THE MATTER OF THE APPLICATION OF

Mary Ellen Eli

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony Sep 26 1900

B. Memo of application Sep 26 1900

C. Birth cert of Goldie Eli

[illegible]

D. Notice of final consideration 2/24/02

E. Order closing testimony 2/27/02

See Cherokee Jacket R 181

D 420, D 443 = R, 182

Cher D 445

Cher D 445

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900
ACTING CHAIRMAN

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 28, 1900.

In the matter of the application of Ewing Halsell for the enrollment of himself and wife as citizens of the Cherokee Nation; said Halsell being sworn by Commissioner T.B. Needles, testified as follows:

Q What is your name? A Ewing Halsell.
Q What is your age, Mr. Halsell? A 25.
Q Your post office address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q What degree of blood do you claim? A One-eighth.
Q What is your father's name? A W. E. Halsell.
Q Is he living? A Yes, sir.
Q Your mother's name? A Mary Alice.
Q Is she living? A No, sir, dead.
Q For whom do you apply? A Myself and wife.
Q What is your wife's name? A Lucille Fortner.
Q Is she a citizen by blood? A Yes, sir.
Q What is the name of her father? A Benjamin Fortner.
Q Is he living? A Yes, sir.
Q The name of her mother? A (Does not know.)
Q Is she living? A Yes, sir.
Q What is the age of your wife? A 21.
Q When didyou marry? A Last year.
Q 1899? A Yes, sir. I am not on the 1880 roll, I never came here until 1881.
Q Have you been admitted? A My father and mother were; I was four years old at the time.

1896 enrollment; page 178, #2292, Ewing Halsell, Cooweescoowee.
1880 enrollment; page 105, #1152, Lucile Falkner, Cooweescoowee.
1896 enrollment; page 162, #1833, Lucille Fortner, Cooweescoowee
My father andmother were admitted in November, 1881.
Q Were you born inthe Cherokee Nation? A No, sir, I was born in Texas, and brought here when I was four years old.

Com'r Needles:--The name of Ewing Halsell is found upon the census roll of 1896. He avers that he was married to Lucille Fortner, a citizen by blood in the year 1899, and the name of Lucille Fortner is found upon the authenticated roll of 1880 as Lucile Falkner, and upon the census roll of 1896 as Lucille Fortner. He avers that his father, William W. Halsell was admitted to Cherokee citizenship on November 18, 1881, and testimony is presented by his father as to his own enrollment. The said Ewing Halsell was born in the State of Texas in the year 1877, before the admission of his father and mother, which was, as has been stated, possibly 1881. His wife being duly identified according to the page and number of the the rolls as indicated in the testimony, the said Lucille Halsell, his wife, will be duly listed for enroll ent by this Commission as a Cherokee citizen by blood. Final judgment as to the enrollment of the application, Ewing Halsell will be suspended and his name will be placed upon a doubtful card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer tothe Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 29th day of September, 1900.

Commissioner.

Supl.-C.D.#445.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL in the matter of the enrollment of EWING HALSELL as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 11, 1902, that his case would be taken up by the Commission for final consideration on the 27th day of February, 1902. Receipt has been acknowledged of Commission's letter, and applicant this day appears by his father, William E. Halsell, and by agreement of the representative of the Cherokee Nation present this case is taken up for consideration.

Mr. W. W. Hastings, Cherokee representative, present.

Commission: It appears upon an examination of the original papers filed in the application of the applicant's father, William E. Halsell, #3331, that the applicant's mother, Mary A. Halsell, was admitted to citizenship on the 17th day of November, 1880, by an Act of the Cherokee National Council.

Commission of Mr. Halsell: Do you, in behalf of your son, submit the case to the Commission for final consideration?
Mr. Halsell: Yes, sir.

Commission: The applicant, by his father, William E. Halsell, and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for final decision based upon the records now on file.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in this case on this day and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

D 445.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 23 1902
ACTING CHAIRMAN

D-445.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., June 10, 1902.

In the matter of the application of Ewing Halsell for the enrollment of himself and wife as citizens of the Cherokee Nation.

SUPPLEMENTAL TO D-445.

APPEARANCES:
Applicant appears in person.
W. W. Hastings in behalf of Cherokee Nation.

COMMISSION: The applicant was notified by registered letter May 26, 1902, to appear before the Commission at its offices in Muskogee, Indian Territory, and submit further evidence relative to his residence in the Cherokee Nation.

EWING HALSELL, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Ewing Halsell.
Q How old are you, Mr. Halsell? A 25 years old.
Q What is your postoffice address? A Vinita, Indian Territory.
Q Where were you born? A Born in Texas, Clay County, I don't remember that for certain.
Q When did you come to the Cherokee Nation for the first time? A In 1881.
Q How long did you continue to reside here after that time? A Ever since 1881.
Q Have you ever made your home outside of the Territory since? A No, sir.
Q For how long a period, if any, have you been gone since that time? A I suppose about five months, while I was at school, about the longest time.
Q Where were you residing on the 28th day of June, 1898? A I believe I was married that day.
Q Have you been making your home here prior to that time? A Yes, sir.
Q Is your wife a citizen by blood or a citizen by intermarriage? A She's a citizen by blood.
Q How long did she reside in the Cherokee Nation? A I think since '84, '84 I guess it was.
Q How long did you know her prior to your marriage? A Since she came to the Territory, I guess, '84 when I learned to know her.
Q Has she been residing here continuously since that time? A Yes, sir, she has.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 10th day of June, 1902.

Notary Public.

Cherokee D 448

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Ewing Halsell for the enrollment of himself as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 26, 1900, Ewing Halsell appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation. The application included his wife, but, as she is differently classified, she is not embraced in this decision. Further proceedings in the matter of said application were had on February 26, 1902, and on June 10, 1902 at Muskogee, Indian Territory.

The evidence shows that Ewing Halsell is the son of Mary Alice Halsell, a Cherokee by blood, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on November 18, 1881, the said Ewing Halsell being four years of age at that time. The name of Ewing Halsell is found on the Cherokee Strip Payment Roll of 1894 and he is identified on the Cherokee Census roll of 1896.

The evidence further shows that Ewing Halsell has lived in the Cherokee Nation ever since the year 1881, and that he was a resident of said Nation on the date of his application for enrollment.

It is, therefore, the opinion of this Commission that Ewing Halsell should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

[illegible]

REFER IN REPLY TO THE FOLLOWING
Cherokee R 445.

Muskogee, Indian Territory, August 22, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of date May 27, 1902, rejecting the application of Green Still for the enrollment of his wife, Minnie Still, as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior on the 13th day of August, 1902.

Very respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

[illegible]

Cherokee D 445.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Ewing Halsell for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 84.

D 44.

N THE MATTER OF THE APPLICATION OF

Ewing Halsell

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 26-1900-

B. Memo. of application Sep 26-1900.

C. Notice of final consideration 2/27/03

D. Order closing testimony, Feb. 26, 1902.

See Cherokee Jacket, 3527

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 11 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF JAMES M. SMITH FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said James M. Smith, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James M. Smith.
Q What is your age? A Forty-two.
Q What is your post office address? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood or intermarriage? A Intermarriage.
Q For whom do you apply for enrollment? A My wife, and myself and children.
Q What is the name of your wife? A Sarah Elizabeth.
Q Is she a Cherokee citizen by blood? A Yes, sir.
Q What was her name before you married her? A Ralston.
Q When did you marry her? A I married her in 1881.
Q What is her age? A Thirty-seven. years old.
Q Have you any certificate of marriage? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated marriage license and certificate certifying that he was married to one Elizabeth Ralston, a Cherokee citizen by blood, on the 8th day of July, 1881.

Q What is the name of your wife's father? A Lewis Ralston.
Q Is he living? A Yes, sir.
Q What is the name of her mother? A Eliza.
Q Is she living? A Yes, sir.
Q What are the names of the children you want to ~~xxx~~ enroll— those under twenty-one that live with you? A Olive Smith.
Q How old is Olive? A Fifteen years old.
Q What is the name of the next one? A Cora.
Q How old is Cora? A She is fourteen.
Q Has she any other name besides Cora? A No, sir.
Q Well, go on. A Maud Smith.
Q How old is Maud? A Seven years old.
Q Is Maud her full name? A Yes, sir.
Q What is the name of the next one? A Eliza.
Q How old is Eliza? A Four years old.
Q What is the name of the next one? A That is all.
Q Are these children all alive and living with you? A Yes, sir.
Q How long have you been living in the Cherokee Nation? A Ever since before I was married on that certificate.

THE COMMISSIONER: The applicant presents a certificate from the Commission on Citizenship dated at Tahlequah September 4th, 1880, signed by Roach Young, president, William Hormage and G. W. Hayes, assistant commissioners, J. B. Mayes, Clerk, and the certificate signed by John L. Adair, Executive Secretary under the seal of the Cherokee Nation, certifying that the certificate with the license, is a true copy from the records.

On this certificate I find the name of Lewis Ralsten, certifying that he was admitted to citizenship as a Cherokee by blood, I suppose September 4th, 1880.

Q Is the Lewis Ralsten mentioned in this certificate, the identical Lewis Ralsten who was the father of your wife? A Yes, sir.

Q When did he remove to the Cherokee Nation? A He moved here in 1861 he said, and the war broke out and he went away.

Q When did he come back? A He came back in February, 1880.

Q And he has been living here ever since? A Yes, sir.

Q When was your wife born? Her name is not in the certificate, is it? A I don,t know. My wife was born in 1863, I think.

Q Her father was admitted in 1881. A Readmitted he said.

Q Well, readmitted then.

1896 Roll, page 527, No. 2695, Sarah Eliza Smith, Delaware District.

1896 Roll, page 588, No. 472, James M. Smith, Delaware District.

1896 Roll, page 527, No. 2697, Ollie May Smith, Delaware District.

1896 Roll, page 527, No. 2698, Cora Lee Smith, Delaware District.

Q I thought you said her name was onlyCora when I asked you a while ago. A Well, that is her name, that way.

1896 Roll, page 527, No. 2700, Maud Smith, Delaware District.

1896 Roll, page 527, No. 2701, Eliza Smith, Delaware District.

Examination by Mr. W. W. Hastings, representative of the Cherokee Nation.

Q When were you married in 1881? A I was married in December, 1880 in the States. You see I wasn't married until 1881 according to the Cherokee laws.

Q You were married first in December 1880? A Yes, sir.

Q And then you were afterwards married in the Cherokee Nation? --according to the Cherokee law? A Yes, sir.

Q You have always been a recognized citizen of the Cherokee Nation? A Yes, sir.

Q You have lived here ever since that time? A Yes, sir; since I was married the first time.

Q And voted here? A Yes, sir.

Q Your wife drew money here did she? A Yes, sir. I have been on every roll since I was married.

Q Where were you married, in whatState? A I was married up here in Missouri, Newton County, Missouri; and Jeff McGhee----

Q (interrupting) Was your wife living in Newton County at the time? A No, sir; she was living right over here in Delaware District.

THE COMMISSIONER:

Q Are these children alive andliving with you at this time? A Yes, sir.

THE COMMISSIONER: The name of James M. Smith appears upon the census roll of 1896. He presents satisfactory marriage license and certificate certifying that he was married according to the laws of the Cherokee Nation to one Sarah E. Ralston in the year 1881, and the name of the said Sarah E. Ralston appears upon the census roll of 1896 under her married name. The names of his children Olive, Cora L., Maud and Eliza, appear upon the census roll of 1896. He presents a certificate of citizenship certifying that his wife's father, Lewis Ralston, was admitted to citizenship in the year 1881, but the name of his wife Sarah E. Ralston, whom he avers is the child of Lewis Ralston, does not appear in said certificate, and he presents no proof as to her admission: Consequently, final judgment as to the enrollment of the said James M. Smith as an intermarried citizen of the Cherokee Nation, and his wife Sarah E., and her children as enumerated in the testimony, as Cherokee citizens by blood, will be suspended, and their names will be placed upon a doubtful card.

-------o-------

The undersigned, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm S McShean

Subscribed and sworn to before me this 11th day of October 1900.

C R Breckinridge

Commissioner.

File with Josie B Chanley case No D 514

D 446

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I. T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF JAMES M. SMITH FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said James M. Smith, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James M. Smith.
Q What is your age? A Forty-two.
Q What is your post office address? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A Intermarriage.
Q For whom do you apply for enrollment? A My wife, and myself and children.
Q What is the name of your wife? A Sarah Elizabeth.
Q Is she a Cherokee citizen by blood? A Yes sir.
Q What was her name before you married her? A Ralston.
Q When did you marry her? A I married her in 1881.
Q What is her age? A Thirty seven years old.
Q Have you any certificate of marriage? A Yes sir.
The Commissioner: The applicant presents a duly authenticated marriage license and certificate certifying that he was married to one Elizabeth Ralston, a Cherokee citizen by blood, on the 8th day of July, 1881.
Q What is the name of your wife's father? A Lewis Ralston.
Q Is he living? A Yes sir.
Q What is the name of her mother? A Eliza.
Q Is she living? A Yes sir.
Q What are the names of the children you want to enroll? those under 21 that live with you? A Olive Smith.
Q How old is Olive? A Fifteen years old.
Q What is the name of the next one? A Cora.
Q How old is Cora? A She is fourteen.
Q Has she any other name besides Cora? A No sir.
Q Well go on? A Maud Smith.
Q How old is Maud? A Seven years old.
Q Is Maud her full name? A Yes sir.
Q What is the name of the next one? A Eliza.
Q How old is Eliza? A Four years old.
Q What is the name of the next one? A That is all.
Q Are these children all alive and living with you? A Yes sir.
Q How long have you been living in the Cherokee Nation? A Ever since before I was married on that certificate.

THE COMMISSIONER: The applicant presents a certificate from the Commission on Citizenship dated at Tahlequah September 4th, 1880, signed by Reach Young, President, William Hernage and G. W. Mayes, assistant commissioners, J. B. Mayes, Clerk, and the certificate signed by John L. Adair, Executive Secretary under the seal of the Cherokee Nation, certifying that the certificate with the license is a true copy from the records.
On this certificate I find the name of Lewis Rolston, certifying that he was admitted to citizenship as a Cherokee by blood, I suppose September 4th, 1880.
Q Is the Lewis Ralston mentioned in this certificate the identical Lewis Ralston who was the father of your wife? A Yes sir.
Q When did he remove to the Cherokee Nation? A He moved here in 1861 he said, and the war broke out and he went away.

Q When did he come back? A He came back in February 1880.
Q And he has been living here ever since? A Yes sir.
Q When was your wife born, her name is not in the certificate is it? A I dont know, my wife was born in 1863, I think.
Q Her father was admitted in 1881? A Readmitted he said.
Q Well readmitted them.

1896 roll page 527 No 2696 Sarah Eliza Smith, Delaware District.
1896 roll page 588 No 472, James M. Smith, Delaware District.
1896 roll page 527 No 2697, Ollie May Smith, Delaware District.
1896 roll page 527 No 2698, Cora Lee Smith, Delaware District.

Q I thought you said her name was only Cora when I asked you a while ago. A Well that is her name, that way.
1896 roll page 527 No 2700, Maud Smith, Delaware District.
1896 roll page 527 No 27ol, Eli za Smith, Delaware District.

Examination by Mr. W. W. Hastings, representative of the Cherokee Nation.

Q When were you married in 1881? A I was married in December, 1880 in the States. You see I was'nt married until 1881 according to the Cherokee laws.
Q You were married first in December 1880? A Yes sir.
Q And then you were afterwards married in the Cherokee Nation?according to the Cherokee law? A Yes sir.
Q You have always been a recognised citizen of the Cherokee Nation? A Yes sir.
Q You have lived here ever since that time? A Yes, sir; since I was married the first time.
Q And voted here? A Yes sir.
Q Your wife drew money here did she? A Yes sir. I have been on every roll since I was married.
Q Where were you married in what State? A I was married up here in Missouri, Newton County, Missouri; and Jeff McGhee---
Q (interrupting) Was your wife living in Newton County at that time? A No sir, she was living right over in Delaware District.

The Commissioner:
Q Are these children alive and living with you at this time? A Yes sir.

The Commissioner: The name of James M. Smith appears upon the census roll of 1896. He presents satisfactory marriage license and certificate certifying that he was married according to the laws of the Cherokee Nation to one Sarah E. Ralston in the year 1881, and the name of the said Sarah E. Ralston appears upon the census roll of 1896 under her married name. The names of his children Olive, Cora L. Maud and Eliza, appear upon the census roll of 1896. He presents a certificate of citizenship certifying that his wife's father Lewis Ralston, was admitted to citizenship in the tear 1881, but the name of his wife Sarah E. Ralston, whom he avers is the child of Lewis Ralston, does not apear in said certificate, and he presents no proof as to her admission; consequently final judgment as to the enrollment of the said James M. Smith as an intermarried citizenof the Cherokee Nation, and his wife Sarah E., and her children enumerated in the testimony, as Cherokee citizens by blood, will be suspended, and their names will be plased upon a doubtful card.

The undersigned, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

signed, Wm. S. Walshear.

Subscribedand sworn to before me this 11th day of October 1900.

Signed, C. R. Breckinridge.

Commissioner.

I, the undersigned, do certify as stenographer to the Commission to the Five Civilized Tribes, that the above is a true and correct copy of the original transcript.

D446

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Cherokee D 446

Department of the Interir,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of James M. Smith for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Lumen F. Parker, Jr., Of Hutchings, West & Parker, Vinita, I. T., attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that his case and that of his wife and children would be taken up by the Commission for final consideration on the 27th day of February,1902; receipt has been acknowledeg of the Commissin's letter, and the applicant this day to-wit: the 27th day of February,1902, appears by his attorneys, Hutchings, Parker & West, Vinita, I. T.
BY MR. PARKER: The certificate required to be furnished is furnished by reference to the application of Lewis Ralston.

BY COMMISSION: The following entry appears upon page 2 of the Docket of the Cherokee Commission on Citizenship, of the year 1880:

"Cherokee Commission on Citizenship. Tahlequah, C. N. Case No.2.
Lewis Ralston,
vs.
Cherokee Nation.
Petition for citizenship filed June 8,1880.)The above case continued until the September term, 1880 by the Cherokee Nation, set for the 15th of Sept. The above named claimant, Lewis Ralston, claims his right to citizenship in the Cherokee Nation xx x xxxx on account of Cherokee blood, being a relative of the late Judge John Landell and James Kell of Delaware District, C. N., well known Cherokees.

The testimony in the case proves conclusively to the Commission that the petitioners claim is well founded- and he is an immediate descendant of the Kell familylong known to be Cherokees by blood.

The Commission therefore hereby decide to admit the said Lewis Ralston to all the rights, privileges and franchise of Cherokee citizenship by blood.

Roach young, President Com.
Wm. Harnage,
G.W.Mayes, Commissioners/
J.B.Mayes, Clerk Com."

There is offered in evidence by the attorneys for the applicant a certificate showing that Lewis Ralston and Miss Eliza Pastell were united in marriage in '59 by G. A Woody, a Minister of the Gospel, and same is filed herewith,

The attorneys for the applicant and the representative of the Cherokee Nation present submit the case to the Commission and same is closed and ordered reported to the Commission for final decision, based upon the evidence now of record. The attorneys for the applicant will be granted ten days in which to file brief in this case, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902

Commissioner.

D. 446
D 449
D 514.

Brief for applicants

Copy for Cherokee Nation in above cases

RIOR
D TRIBES,
F I
MAR 15
ACTING CHAIRMAN.

In the matter of the application for enrollment of

James M. Smith, and family "D. 446"

George W. Eadens and family "D. 499"

Josie Belle Stanley and child "D. 814"

To the Honorable Commission to the Five Civilized Tribes.

At the final hearing of this application on February 27, 1902, it was distinctly stated by the representative of the Cherokee Nation that he had no objection to offer to the enrollment of this family and it was by both the clerk in charge and the representative of the Cherokee Nation stated as a fact that according to the rulings of the Commission subsequent to the original application of these parties, that they would now be duly enrolled.

Upon this information which confirmed our conclusion in the matter we considered it useless to offer further testimony in support of this application and deem it now unnecessary to make any argument in support thereof.

The matter of the enrollment of this family offers an opportunity, however, to bring to light the reason why so many minors were not enrolled by the Cherokee authorities at the time their parents were. We were and are prepared to prove by unimpeachable testimony that Louis Raddston, the father of one of these applicants, at the time he presented himself for enrollment tendered to the Commission the names of his family, among them one of these applicants, and asked that they be readmitted with him. He was represented at that time by J. M. Bell, a man who then and now stands high in the Cherokee Nation and whose veracity is beyond question. This commission consisted of Roach Young, W. W. Harnage and G. W. Mayes, in answer to the tender of the names of the children the commission said that it was wholly unnecessary to readmit them, that his readmission carried theirs with it.

As we said, this statement can be shown by the evidence of witnesses who were present and heard it, hence it is not difficult to understand why not only these children, but many others, were not enrolled since this opinion of the condition might easily be communicated throughout the nation and further applications for the enrollment of children dispensed with.

However, these witnesses being men far advanced in years and feeling that the rights of these citizens were secure under the Curtis Act, we decided not to go to the trouble and expense to bring this case within the rules laid down by the Supreme Court in the United States in the case of United States against Nefires, for if the Commission has decided as the representative of the Cherokee Nation and the Clerk in charge said, it would be nothing more than a waste of time and money. These applicants have always been recognized and as citizens and were placed upon a doubtful card for the sole purpose of reserving a decision upon the First paragraph of the Curtis Act; having made that decision further discussion is unnecessary.

Respectfully submitted.

Hutchings Keller & West

~~[illegible] Attorneys.~~ Attys for Applicants

Cherokee D 462

DEPARTMENT OF THE INTERIOR,

H.t.L.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Alta Theurer for the enrollment of herself and three minor children, Mary E., Lena, and Alta Theurer, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

---oOo---

The record in this case shows that on September 28, 1900, the applicant, Alta Theurer, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her three minor children, Mary E., Lena and Alta Theurer as citizens by blood of the Cherokee Nation. Thereafter, on September 29, 1900, at Vinita, Indian Territory, further evidence in the matter of this application was heard and on February 27, 1902, at Muskogee, Indian Territory, further proceedings were had.

The applicant, Alta Theurer, is identified on the Cherokee authenticated tribal roll of 1880 as "Altaria Johnson". Ever since her marriage in 1882, under the laws of the United States, to Martin J. Theurer, a white man, the applicant, Alta Theurer, although owning property in the Cherokee Nation, has lived continuously except for frequent visits to the Cherokee Nation, with her husband and family at Fort Smith, Arkansas.

The applicant, Alta Theurer, as "Altevara Theurer", her daughter, Mary E. Theurer, as "Amy Theurer", and her daughter, Lena Theurer, are all identified on the Cherokee Strip Payment roll of 1894, and on the Cherokee Census roll of 1896. Another child, Alta Theurer, was born on August 9, 1898, and proper proof of her birth has been furnished this Commission. All of the children of the applicant, Alta Theurer, were born at Fort Smith, Arkansas.

Paragraph 9 of Section 21 of the Act of Congress, approved June 28, 1898, (30 Stats. 495.,) provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship . . . . . "

It is therefore the opinion of this Commission that Alta Theurer, Mary E. Theurer, Lena Theurer, and Alta Theurer are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be refused and it is therefore so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES
C R BRECKINRIDGE

ALLISON L AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 462.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 22, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 20, 1902, rejecting the application of Alta Theurer for the enrollment of herself and her three minor children, Mary E., Lena and Alta Theurer, as citizens by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. C. No. 45.

[illegible]

IN THE MATTER OF THE APPLICATION OF

James M. Smith &c

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Sept [illegible] Canceled and
trans[illegible] [illegible]

A. Original testimony Sep 26-1900.

B. Memo. of application Sep 26-1900.

C. Marriage license and certificate.

D Birth cert of Julius Smith

E [illegible]

notice of final consideration 2/27/02

Receipt for testimony

Marriage [illegible]

See Cherokee Jacket No [illegible] 4

Receipt for applicant

Supp test & order closing test 2/27/02

Cher D 447

Cher D 447

D447

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 26, 1900.

In the matter of the application of Edward F. Couch for enrollment as a citizen of the Cherokee Nation; said Couch being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please? A Edward F. Couch.
Q How old are you? A 32.
Q Your post office? A Eagle.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself.
Q You applyas a Cherokee by blood? A Adopted.
Q Have you your marriage license and certificate? A I have a license, the certificate is misplaced and I could not find it.
The applicant presents a duly authenticated Cherokee License, issued by the Clerk of Cooweescoowee District, May 12, 1888, authorizing his marriage to one Ida Langley, and certificate shows that he was married in accordance with said license, by the Clerk of the District upon the same date as the license? A This is filed herewith
Q Your wife a native of the Cherokee Nation? A Yes, sir.
Q Is she alive or dead? A Alive.
Q How old is she now? A About 24 years old.
Q She must have been about 12 years old when you married her? A She was about 16, she is more than 24, about 26.
Q How long did you live with her after your marriage? A About a year.
Q Then you separated? A Yes, sir.
Q Have not lived together since? A No, sir.
Q Did you get a divorce? A Yes, sir.
Q Where is your degree of divorce? A Delaware District
Q You have not got a copy of it? A No, sir.
Q When were you divorced from her? A I forget now.
Q It has been some years ago, has it? A yes, sir.
Q Have you married since? A No, sir.
Q Still single? A Yes, sir.

1880 enrollment; page 25, #49, Ida Langly, Orpahn Roll, Saline
1896 enrollment; page 197, #2776, Ida Langly, Cooweescoowee.

Q You are not onthe rol of 1896? A No , sir.
Q Where were you in 1896, Cooweescoowee? A Yes, sir, The reason I was not on that roll was because they did not find her name on the roll of 1880. She was at the Asylum and they never had the Asylum roll.
Interrogatories by W.W.Hutchins, Cherokee Representative:

Q How long was it after your married until you and your wife separated? A About a year.
Q What was the cause of the separation? A We could not get along, and she went off.
Q Did you have any home for her? A Yes, sir.
Q Your own or rented? A Rented.
Q Did you go off and leave her yourself? A No, she went off and left me.
Q Did not you leave her at your mother's? A I left her at Mother's and went to the strip after some cattle for [illegible] and come back and she was gone.
Q Did not your mother drive her away in your absence? A No, sir.
Q You did not know anything about her leaving you? A When I come back she was gone.
Q You staid away quite a consider able length of time? A a little over three weeks.

Edward R. Couch---2.

Com'r Breckinridge:

Q Did you ever try to get her to come back and live with you ?
A No, sir.
Q What did your mother drive her away for?A I do not know that she drove her away/
Q You have no idea why you and your wife stopped lving together?
A We could not ~~get~~ agree. She seemed a little of the the way.
Q Was the decree of divorce granted to you? A yes,sir.
Q Was there ever a child of that marriage? A No, sir.

Com'r Breckinridge:--The applicant is not identified on the roll of 1896, but he is shown by the marriage license and certificate filed herewith to have been married to his Cherokee wife in 1888, in accordance with Cherokee wife. That wife is still living, and is identified on the rols of 1880 and 1896 as a native Cherokee. The applicant states that he and his wife lived together about a year and then separated and divorce has been granted to him. He states that he has lived in the Cherokee Nation ever since his marriage in 1888, and has not re-married since the divorce. His application will be placed upon a doubtful card for further consideration, and he is desired to supply the Commission with a copy of the decree of divorce. Final judgment as to his application will be suspended.

---ooo000ooo---

J. O. Rosson, being frist duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 29th day of September, 1900.

Commissioner.

D447

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 16 1900
ACTING CHAIRMAN

No. D. 447

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 28th, 1900.

Supplemental proceedings in the matter of the application of Edward R. Couch, No. D 447.

SOLOMON KETCHUM, being sworn by Commissioner C. R. Breckinridge, was examined by Mr. W. W. Hastings, representative of the Cherokee Nation, and testified as follows:

Q What is your name? A Solomon Ketchum.
Q Do you know Edward R. Couch? A Yes, sir.
Q What is your post office address? A Vinita.
Q Do you know Edward R. Couch? A Yes, sir.
Q What is his post office address? A Eagle, I. T., I believe.
Q Did you know his former wife, Ida Langley? A No, sir; I wasn't acquainted with her. I have saw her.
Q You knew that was his former wife? A Yes, sir.
Q Is he living with her? A No, sir.
Q He testified that he had been divorced from her, is that true? A Yes, sir; that is my understanding.
Q Do you know whether Edward R. Couch is a citizen by blood or adoption or intermarriage? A By intermarriage.
Q He acquired citizenship by reason of his marriage to Ida Langley? A Yes.
Q He testified that he had been divorced from her some few years ago. Do you know whether or not he has, since his divorce from his former wife, Ida Langley, remarried? A Yes, sir.
Q Is his present wife a citizen of the Cherokee Nation or a noncitizen? A She is a noncitizen.
Q She is a white woman? A Yes, sir.
Q How long has he been married to his present wife? A Well, I don't know, about two or three years, I think.
Q Is Edward R. Couch any relation to you? A He is my brother-in-law.
Q Do you know whether he is living with his second wife now or not? A Yes, sir; he was a week or ten days ago.
Q He recognizes her as his wife? A Yes, sir.
Q He holds her out to the community as such? A Yes, sir.
Q And he introduces her to people as such? A Yes, sir.
MR. HASTINGS: The representatives of the Cherokee Nation, under Sec. 686 of the compiled laws of the Cherokee Nation, request that the applicant Edward R. Couch be rejected as a citizen of the Cherokee Nation by intermarriage.
THE COMMISSIONER (To the witness) You say he is your brother-in-law? A Yes, sir.
Q Did you marry his sister or he your sister? A I married his sister.

* * *

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the supplemental testimony in the above mentioned application, as well as all other proceedings, at the time and place above mentioned, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this [illegible] day of October A. D. 19[illegible].

Commissioner.

D447

FILED
MAR [illegible] 1902

"R"

Cherokee D 447

Department of the Interir,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Edward R. Couch for enrollment as a Cherokee citizen;

Appearances:
G. E. McCullough, of Vinita, I. T., attorney for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that his case would be taken up by the Commission for final consideration on the 7th dayof February,1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day, the 27th of February,1902, appears in person and by his attorney, G.E. McCullough, of Vinita,I.T. EDWARD R. COUCH, being sworn and examined,testified as follows:
BY MR. McCULLOUGH:

Q You are Edward R. Couch, the claimant in this case? A Yes sir.
Q In this case at Vinita, September,1900, you gave in your testimony? A Yes sir.
Q Did you ever receive written notice after that time that the deposition of Sol Ketchum would be taken in this case at Vinita, on the 28th day of September 1900? A No sir.
Q Did any one ever tell you that the deposition of Sol Ketchum at Vinita, I. T. on September 1900 would be taken in this case? A No sir.

BY MR. McCULLOUGH: The applicant herein, to-wit, Edward R. Couch, objects to the introduction of the deposition of Sol Ketchum taken at Vinita, Indian Territory on September 28,1900, being introduced in evidence in this case at this time, for the reason that he received no notice whatever either written or oral that said deposition was to be taken.

BY MR. HASTINGS: The representatives of the Cherokee Nation desire to say in reply yo this objection that the Commission is charged with making a correct roll; that it is the Commission's dutyof its own motion to see that the testimony, either for or against an applicant, is taken, and that no rule was made by the Commission at the time that Soloman Ketchum's testimony was taken xxxxxxxxx requiring the Cherokee Nation to notify the applicant or any person for that matter that testimony in his case would be taken, and that the rule to notify applicants was promulgated by the Commission in April 1901. That it is the duty of the Commission and the practice of the Commissionte develop all the facts from any witness introduced upon the stand, whether the applicant is present or not, and that the Commission represents the applicants as much as it represents the Cherokee Nation.

BY MR. McCULLOUGH: The applicant, Edward R. Couch, now desires that in case the testimony of Sol Ketchum taken on September 28, 1900 at Vinita, I. T. be taken as evidence against him to introduce the following rebuttal testimony.

BY COMMISSION: The request of the attorney for the applicant will be granted.

BY MR. McCULLOUGH of the applicant:

Q What relation are you Mr. Couch to Sol Ketchum? A Brotherinlaw.
Q Does he live xxxx xxx xx near you? A He lives about I guess about 20 miles, something near that.
Q Were you ever married after you were divorced from your Cherokee wife? A No sir.
Q Did you ever agree with any woman that you and she would live together as husband and wife, and did she agree to live with you that way since the divorce from your Cherokee wife? A Yes sir.
Q Did you have any woman keeping house for you after your separa-

tionfrom your Cherokee wife? A Yes sir.
Q I wish you would tell the court how it happened that this woman came to keep house for you? A Well she was working there for my brother, and she come over there- my brother moved off and she kept house on there and went under my name, mm you know, and afterwards we agreed after everything was settled we would be married you know.
Q What do you mean by everything was settled? A Well I got on the roll.
Q After the rolls were completed and your rights were established as a Cherokee citizen? A Yes sir.
Q But there was no agreement of marriage before that time? A Nosir
Q And you were never married in any manner? A No sir, nont at all.
Q What is this woman's name? A Cassidy.
Q What is her given name? A Why, I God, I forgot it now.
Q You have never married this woman? A No never married her.
Q You expect to complete this marriage contract that's entered into after your rights are established? A Yes sir.
BY MR. HASTINGS:
Q How about if they were denied, would you complete it? A Well we would be married after a while, yes.
Q How long have you been living with her? A It will be five years in May.
Q Has she had any children in the meantime? A No sir.
Q Had none? A No sir.
Q You are living with her as your wife now? A Yes sir.
Q And you have for five years? A Yes sir.
Q She lives in the house with you? A Yes sir.
Q And has for that length of time? A Yes sir.
Q It will be five years in May? A It will be five years in May or June.
Q She is a white woman? A Yes sir.
Q Who else lives in the house with you? A Nobody.
Q Just you two, and have lived there for five years? A Yes, about five years, since my brother left.

BY COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record. The attorney for the applicant requests and will be granted 10 days in which to file a brief in this case, one copy with the Commission and one copy with the representative of the Cherokee Nation.

* * *

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28,1902.

Commissioner.

No D.-447
Edward R Couch

applicants Brief

For C [redacted]
nations

Copy

INTERIOR
FIVE CIVILIZED TRIBES
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2 1902
ING BUREAU

[illegible]

[illegible] 447

[illegible]

[illegible] R. Couch, is [illegible]

[illegible] divorce [illegible] wife, [illegible] he had [illegible] Cherokee Nation, [illegible]

[illegible] this [illegible] Cherokee citizen.

[illegible] XVI. [illegible]

[illegible] deceased [illegible]

[illegible] of citizenship of [illegible]."

[illegible] to wit:

"[illegible] wife [illegible] of such wife, [illegible] to only such [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

II.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

V.

[illegible] Church [illegible] common law marriage,

[illegible] law marriage, [illegible] sufficient [illegible] of the spirit [illegible]

[illegible] law marriage, [illegible] reasonable doubt [illegible]. Trusting [illegible] construed [illegible] honorable Court.

By Geo. E. McCulloch

[illegible] McCulloch, [illegible]

[illegible] Couch.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., April 12, 1902.

In the matter of the application of
Edward R. Couch for enrollment as a
citizen of the Cherokee Nation by
intermarriage. Cherokee D. 447.

Brief on behalf of the Cherokee Nation.

-:-:-:-:-:-:00:-:-:-:-:-:-

The applicant was married to his first wife under the Cherokee law: lived with her about a year; separated and was divorced from her, and since that time he was married to a white woman, not a citizen of the Cherokee Nation. He admits in his testimony that he has been living with her for about five years; and that he is living with her as his wife; that she lives in the same house with him; and that noone else occupies the house except the two. Solomon Ketchum testifies that he is married to her, at least that they are so recognized as being married in the community in which they live; that he is a brother-in-law of applicant, and consequently is in a position to know.

We contend therefore that applicant has forfeited his right under Section 666 of the Compiled Laws of the Cherokee Nation of 1892.

Counsel for applicant argues, as has heretofore often been presented, that the question of citizenship is a vested right of which applicant can not be divested; but as we have frequently called the attention of the Commission to the decision of the Supreme Court of the United States in the Stephens case, 174 U. S., which is to the effect that a prospective share in the distribution of the lands and moneys of one of the Five Civilized tribes is not a property or vested right. This was also practically decided in the Roff case, which was appealed from the Chickasaw Nation to the Supreme Court of the United States, and the Court decided that the Chickasaw ~~Mx~~ legislature could withdraw the citizenship which it had conferred upon Roff, hence decided that a citizenship right was not a vested r ight. All of the argument of counsel for applicant has been upon the theorY that applicant obtained some vested right bY his intermarriage with his first wife. But in as much as the Supreme Court has decided adverselY to this contention we submit that the applicant forfeited his right to be enrolled bY violating Section 666 of the Compiled Laws of the Cherokee Nation when he married his present wife, whether the marriage ceremonY was performed or whether he entered into a common law marriage.

RespectfullY submitted,

AttorneY for the Cherokee Nation.

W H M.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 23 1902
ACTING CHAIRMAN

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 22nd, 1902.

In the matter of the application of Edward R. Couch for the enrollment of himself as a citizen by intermarriage of the Cherokee nation.

Supplemental to D-447.

Appearances:

G. E. McCulloch for Applicant.
W. W. Hastings for Cherokee nation.

EDWARD C. COUCH, being duly sworn, testified as follows:

Examination by Mr. McCulloch.

Q. Mr. Couch, where have you resided since your separation from your wife? A. In the Cherokee nation.

Q. Have you always resided there since you were divorced from her? A. Yes, sir.

Q. Where do you live now? A. I live in the Cherokee nation close to Eagle. Eagle is my post office.

Q. What do you know about the report that your mother drove your wife off? A. I don't know anything about her driving her off. I never heard of it until I went before the Dawes Commission.

Q. Where was your mother at the time your wife left? A. She was living----Missouri was her home. She was in Missouri. I went with Cobb out on the strip to move his cattle in the fall, when he moved from the strip. When I come back I found she was gone. During that time I was gone out with the cattle, when I come back she was gone.

Q. When did you see her after that? A. About three years after that she come down to our place to see about a divorce; said we couldn't live together--just as well be divorced.

Q. What did you tell her? A. I told her I was ready at any time. We never was divorced for three or four years, I forget which. I sued for a divorce and she never appeared.

Examination by Mr/ Hastings.

Q. You got the divorce by her consent? A. No, not then. I didn't get the divorce then, you know.

Q. Well, I know. It was agreed she wouldn't appear. A. She wanted to get a divorce then.

Q. When you saw her didn't she agree not to appear? A. No, sir; I hadn't seen her for about three years or four years before that.

Q. What grounds did you allege for divorce? A. Why, she went off and left me.

Q. How long did you live with her before she left you? A. About a year.

Q. Did you have any children by her? A. No, sir.

Q. Had she ever been married before? A. Yes, sir; she had been married before.

Q. To whom? A. I will be dogged if I know now. It was Ware or something like that.

Q. Where was he? A. In the pen.

Q. In the penitentiary? A. Yes, sir.

Q. She had never been divorced from him? A. I don't know.

Q. Did you ever go to see this woman after she left you? A. No, sir.

Q. Never tried to get her to come back after she left you? A. No, sir.

Q. Never made any effort to get her to come back? A. No, sir.

Q. Never sent her any word or wrote her? A. No, sir.

Q. Well, you are living with this woman by the name of Cassady?
A. Yes, sir.
Q. Have you been married since you were here before? A. No, sir.

Examination by the Commission.

Q. How long have you been in the Cherokee nation? A. About 23 years.
Q. Been here continuously since 23 years ago? A. Yes, sir.
Q. Ever made your home outside of the territory since that time?
A. No, sir; never did.

Examination by Mr. Hastings.

Q. What is your former wife's name now? A. Ida?
Q. Yes. Langley, I think.
Q. What is her post office? A. I think she is dead now. I think she was drowned in the Verdigris some two or three years ago.

Examination by Mr. McCulloch.

Q. I wish you would tell the court why it was you never asked her to come back and live with you? A. I don't know. We couldn't agree and she went off. When I went off after the cattle we were on good terms.
Q. Had you heard any reports about other men running after her?
A. Yes, sir; down to [illegible] they were thick with her and others. That is the reason, one of the reasons I didn't want to see her any more.

Examination by Mr. Hastings.

Q. About how long ago was this separation? A. About 15 years, as near as I can recollect.

J. E. COUCH, being duly sworn, testified as follows:—

Examination by Mr. McCulloch.

Q. State your name to the court. A. J. E. Couch.
Q. What relation are you to Edward R. Couch? A. Father.
Q. Did you know his former wife? A. Yes, sir.
Q. Do you know about the time they were separated? A. Yes, sir; about.
Q. Where were you at that time? A. When she left I was in Missouri.
Q. Where were you before that time? A. Staying there at his house, making hay.
Q. Who else was there besides you? A. My youngest son. His brother.
Q. What time of the year was this, do you remember? A. August, I think; as well as I remember.
Q. Do you remember the circumstance of Ed's going away some place after cattle? A. Yes, sir.
Q. For whom, do you know? A. Sam Cobb. Went out on the strip to bring his cattle in.
Q. Where was his wife at the time she left? A. She was at home, Ed's house.
Q. Who was there at the house at that time besides she, you and your young son? A. Who was there?
Q. Yes. A. No one.
Q. Where was your wife? A. She was over in Missouri.
Q. Do you know of the circumstances of her leaving? Tell us what you know about his wife leaving? A. Well, I don't know much about it. She was there when he started off after the cattle. He told her to stay right there. The little boy was staying with her. I was out there making hay. He told her to stay until he came back. I went over to Missouri, home, and when I came back, about a week, she was gone.

Did anybody come back with you? A. My wife came with me.
Q. What do you know of the relations between her and Ed's wife?
A. They was on good terms.
Q. State what you know about that to the court now. A. My wife has always said and has always seemed to think a great deal of her. She came back to us why two years, I reckon, may be three. She came in and treated her just like she was a mother. My wife treated her just the same as she would a child. She came down to see my son about her divorce.
Q. How long did she stay at your house? A. Stayed until after dinner. My wife was sick at the time. She helped Mattie get dinner.
Q. Before this time did you wife come down from Missouri, had she ever been out here before to see Ed's wife? A. Yes, sir. Been down and spent 2 or 3 weeks with her.
Q. Where was Ed living at that time? A. He was living on White Oak, about 8 miles from Vinita.
Q. West of Vinita? A. Yes, sir; west of Vinita.
Q. Tell us if you have heard any hard words or expression of hard feelings between Ed and his wife? A. No, sir; never heard a hard word between them two.
Q. Did you ever hear reports that some men were running after Ida?
A. Yes, I heard the report.
Q. Did you ever see any other man with her? A. When she came down to my house there was some man with her in the buggy. I don't know who it was. I didn't know him.
BY MR. HASTINGS: Was this before the separation or after? A. That was after it.
BY MR. McCULLOUGH: You didn't know this young man with her?
A. No, sir.
Q. Did you hear the names of any of the men reported to be running after her? A. A fellow by the name of Dunn was reported to be.
Q. What do you know about this, anything more than hearsay?
A. No, sir; I don't know anything about it.
Q. Do you know where Ed has lived since his separation from his wife? A. Lived right down near Vinita ever since.
Q. Always in the Cherokee nation? A. Yes, sir. I don't think he has been out. I reckon he may have been in the creek nation after cattle for Doc. Fraser.
Q. With whom has he made his home? A. He has made his home at Vinita. For the last 3 or 4 years he has been farming by himself.

Examination by Mr. Hastings.

Q. Mr. Couch, had you heard anything against this woman's reputation while she was living with your son as his wife?
A. Yes, sir.
Q. Well, now, how are you going to explain that and reconcile it with the rest of your testimony that you have just given here to the exact effect that your wife thought as much of her as if she were her own daughter? A. That was the report, now. I don't know whether it was so or not.
Q. Then your wife didn't believe it? A. I don't know whether it was so or not.
Q. You didn't believe it did you? A. No, sir.
Q. Your wife didn't believe it about her? A. No, sir.
Q. Treated her as she would any respectable woman? A. Yes, sir; when she come there.
Q. Ed, prior to his separation from this woman, made no complaint because of her unfaithfulness? A. Why, I don't know.
Q. You never heard anything? A. He is a fellow who never says anything about anything. I never did ask him.
Q. It would seem strange if your wife thought as much of her as indicated by your testimony that that woman could be a bad character.
A. All I know is just reports.

Q. Where was Ed and his wife living when this separation took place? A. Lived on White Oak.
Q. How far from Vinita? A. I suppose about 7 or 8 miles.
Q. Out on the prairie? A. Right in the edge of the timber.
Q. It wasn't as thickly settled out there then as it is now?
A. I haven't been out there for a long time.
Q. That was about how long ago? A. 12 or 14 years.
Q. Well, it wasn't very thickly settled then, was it? A. No, sir.
Q. How far did his wife's mother live from there? A. Her mother was dead.
Q. Where did she go? A. I don't know where she went.
Q. Did you ever make any inquiry? A. No, I never did.
Q. Wasn't your son there with her? A. My little boy.
Q. Didn't he ever say where? A. She went to the neighbors, to a mans by the name of Leach.
Q. How far had Ed gone after cattle? A. Gone out on the strip.
Q. Cherokee strip? A. Yes, sir.
Q. That was 200 or 250 miles? A. Yes, sir.
Q. He left that woman alone in that unsettled place? A. There was neighbors there.
Q. I mean in the house? A. My little boy was there. There was neighbors within a quarter of a mile.
Q. I mean in the house. Well, I was there and my little boy stayed there with her all the time.
Q. You already stated you went to Missouri and left her there. Well then, there was nobody there. A. Only the two when I went to Missouri.
Q. She and a boy about 12 years of age left there alone? A. Yes, sir.
Q. While they were left there alone she went off to some of the neighbors house? A. Yes, sir.
Q. When your son came back he never made any effort to get her to come back? A. I don't know whether he did or not.
Q. Do you know of his making any effort? A. No, I don't.
Q. Do you know where she was when he came back there? A. No, sir.
Q. Do you know how long he was gone to the strip? A. He was gone about three or four weeks.
Q. He was gone about three or four weeks? A. Yes, sir; just went out to take the cattle from the pasture, brought them right back.
Q. Do you know where your son lives now? A. Yes, sir.
Q. Do you know he is living with a woman up there by the name of Cassady? A. I haven't been up there for quite a while. I was up there last fall.
Q. Have you stayed all night recently? A. No, sir.
Q. How many rooms in the house? A. Three.
Q. You know that he lived with this woman as his wife? A. I don't know.
Q. Didn't he introduce her as his wife? A. I don't know.
Q. What did he call her to you? A. I don't know.
Q. Now, Mr. Couch, you certainly know--- A. They live about 25 miles from where I live.
Q. You know that woman has been living there with him for four of five years. A. Yes, sir; been staying there off and on four or five years.
Q. He has got no children? A. No, sir.
Q. She has got none? A. No, sir.

Examination by Mr. McCulloch.

Q. When you went down there, Mr. Couch, to Ed's to make hay, about how long did you stay there before she left; from the time you went there until she left? A. I went there in July.
Q. You were there when she left? A. No, I wasn't there when she left. I had gone to Missouri when she left.
Q. How long were you there when they were there together?
A. Why, from July up in, I reckon the last of August.

Q. During that time [illegible] of hard [illegible]?

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission in the [illegible] Carlisle [illegible] the testimony and proceedings in this case [illegible] is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 23rd day of July, 1902.

Notary Public.

D447.

Cherokee D-447.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 7, 1902.

In the matter of the application of Edward R. Couch for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Edward R. Couch.

Q What is your age at this time? A I will be thirty-five this month.

Q What is your postoffice? A Eagle.

Q Are you the same Edward R. Couch that made application to the Commission for enrollment as an intermarried citizen on September 26, 1900? A Yes sir.

Q What is your wife's name? A Ida.

Q Is she living at this time? A No sir, she is dead.

Q When did she die? A About two years ago.

Q Was she a citizen by blood of the Cherokee Nation? A Yes sir.

Q When were and your wife, Ida, married? A In '88 I think, ar '87, I don't know which.

Q Were you married under a Cherokee license? A Yessir,

Q Have you ever been married prior to your marriage to your wife, Ida? A No sir.

Q Had she ever been married prior to her marriage to you? A I don't know, I heard she had, I don't know whether she had or not.

Q Didn't you ever talk to her about it? A No, not nothing in particular, some said she was married before but she never did say.

Q You don't know whether she was or not, you heard so, but you don't know it? ANo sir.

Q And you never asked her whether she had been married before? A Well, she said she had lived with another man.

Q What was his name? A Tom Tare or Tear.

Q She is your first wife? A Yes, and my only wife.

Q Did you and she live together from the time of your marriage up until the time she died? A No sir.

Q Did you separate? A Yes sir.

Q When did you separate? A In about a year after we were married.

Q Where were you living when you separated? A Whiteoak.

Q In the Cherokee Nation? A Yes sir.

Q Were you living on a farm or in town? A Living in the country, on a farm.

Q Whose place were you living on? A It was arented place, a place I had rented.

Q What was the cause of the separation? A Why I went to the Cherokee strip after some cattle for Sam Cobb, and when I come back she was gone.

Q You were the man that left your wife with your mother or her mother? A No, I left her at home and her mother moved down to the place where my wife stayed.

Q How long were you gone over to the Cherokee strip after cattle? A A little over a month.

Q Then when you got back to your home your wife had gone? A Yes sir.

Q Did you hunt her up after you come back? A No sir. I didn't go to hunt her up; in about two years afterwards she wanted to get a divorce and said we couldn't live together.

Q Do you mean to tell the Commission that when you come home after a month's absence that you didn't take enough interest in your wife to find out where she was gone or what had become of her? A She left word that she was going to Muskogee.

Q Did you make an effort to find out where she was going? A No sir.

Q How long after you come back before you saw your wife? A Well, I seen her for a little while the next day after I come back.

Q Did you have any talk with her then? ANot much. She said that we couldn't live together and would be separated, and she would go to Muskogee and she left

left a note that she had gone.

Q This first time you saw her you didn't try and get her to come back and live with you? A No sir.

Q You didn't tell her the house was ready for her to come back? A No sir, I didn't tell her, she knew it was ready for her.

Q You didn't tell her she was welcome any time she might want to come back? A No sir.

Q In other words you were perfectly willing for her to go off and stay away? A No, not at first; I asked her why she wanted to go away and she said we couldn't live together.

Q Did you and she have any trouble before you went away? A Yes, quite a little bit.

Q What was that trouble over, some family affairs? A Yes sir.

Q Well now, about two years after this she come to you and wanted a divorce? A Yessir.

Q Did she get a divorce? A No sir, I told her I didn't have the money then to try the divorce and about two years after that ——

Q That made four years after you separated? A Yes sir, I sued for the divorce in the Cherokee Courts.

Q Did you get the divorce? A Yes sir.

Q Did she appear and fight the case? A No sir.

Q Where was she living when you got the divorce? A She was living at Foyil.

Q In the Cherokee Nation? A Yes sir.

Q Where were you living when you got the divorce? A At Vinita.

Q What court did you get the divorce? A In the Delaware Court.

Q About what year would that make it that you got your divorce in? A I forget just what year it was.

Q How long ago? A I couldn't tell you that, It had been about four years after we were married.

Q You were married when in '88? A In '88 or '87.

Q How long did you live with her? A About a year.

Q Then you separated? A Yes sir.

Q And about four years afterwards you got the divorce, that would make it about '93? A Something in the neighborhood of that.

Q You never seen her since you got a divorce? A No sir.

Q You don't know whether she was married then or not? A No sir.

Q From the time you got ~~your~~ divorce up to the present time have you ever married again? A No sir.

Q You were still a single man on the first day of September, 1902? A Yes sir.

Q Where have you lived, Mr. Couch, since 1888? A I lived right around Vinita there. Well, I lived down on Mustang Creek for a while, for about seven years I think it was; then I moved up on Big Cabin in Cooweescoowee and I have been there eversince.

Q Have you lived in the Cherokee Nation ever since '88 up to the present time? A Yes sir.

Q You haven't lived outside of it? A I haven't lived outside of it for twenty-three years.

Q Now you say when you went over to the strip after these cattle you were gone about a month, is that right? A Yes sir.

Q You left your wife at home? A Yes sir.

Q Did you leave anybody there with her? A My father was staying there with her.

Q That was about '89 wasn't it? A No, I went over to the strip in either '88 or '89.

Q Did you leave plenty for her to live on when you went away? A Yes sir.

Q She didn't have to go away to get something to eat or wear? A No sir.

Q Was your father there at the house when you came back? A No, he wasn't. I don't recollect where he was, he wasn't home when I came back.

5- Edward R. Couch,

Q Do you know how long he had been gone? A About a day or two I think, he went back to [illegible] for a load of goods.
Q Do you know how long your wife had been away when you got back?
A No sir, I don't know.
Q Isn't it a fact she left the house because she didn't want to stay by herself? A No sir, father was there until a day or two before he went away.
Q Did you have any children by this wife? A No sir.
By J.C.Starr: You had had some trouble with your wife before you left? A Yes sir.
Q How long before you left was it that this trouble occurred? A Along about a month or two before I went to the strip.
Q Where were you living when you made this trip to the strip? A Out there by Whiteoak.
Q How far from Whiteoak? A About half mile or three-quarters from Grayson Wills.
Q Who were your nearest neighbors? A Grayson Wills and a fellow by the name of Yates.
Q What was his first name? A I don't know his first name.
Q Is your wife alive at this time? A No sir, I heard that she got drowned in the Verdigris River.
Q Is her father and mother alive at this time? A No sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E C Rheinbaugh

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Subscribed and sworn to before me this 28th day of October, 1902.

B C Jones

Notary Public.

Cherokee D-447.

aad

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Edward R. Couch as a citizen by intermarriage of the Cherokee Nation.

DECISION

The record in the case shows that on September 26, 1900, Edward R. Couch appeared before the Commission at Vinita, Indian Territory, and made personal application for enrollment as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 28, 1900, and at Muskogee, Indian Territory, on February 27, 1902, July 22, and October 7, 1902. The testimony of Ida Langley taken at Claremore, Indian Territory, on October 26, 1900, has been made part of the record in this case.

The evidence shows that the said Edward R. Couch was married under authority of a Cherokee marriage license on May 12, 1888, to Ida Langley, a citizen by blood of the Cherokee Nation. It appears that he lived with his wife, Ida, about one year; that he then took his wife to his mother's house and left her there; that he then went away, returning in three or four weeks; that upon his return his wife was gone from his mother's house and that he made no effort to induce his said wife to again live with him. It further appears that the said Edward R. Couch obtained a divorce from his wife, Ida, on May 1, 1895, in the tribal court of the Cherokee Nation.

Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides for the enrollment of Cherokee citizens "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 667 of the Compiled Laws of the Cherokee Nation (1892), provides:

> "Every person who shall lawfully marry under the provisions of this act, and afterwards abandon his wife, shall thereby forfeit every right and privilege of citizenship of this Nation."

It is, therefore, the opinion of this Commission that Edward R. Couch abandoned his wife within the meaning of the section of the Cherokee law above quoted, and that his application for enrollment as a citizen by intermarriage of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this DEC 10 1902

D-447

Edward R Couch

Supplemental Brief

For the Cherokee attys.

for C. N

Department of tho Interior.

Commission to the Five Civilized Tribes.

In Re. [illegible] E.Couch, Cherokee D-447

SUPPLEMENTAL BRIEF,-- CLAIMANT.

[illegible] 1903, Supplemental testimony was given by the claimant [illegible] request of the said Commission. In this testimony the claimant was asked by the attorney by the Cherokee Nation if ~~[illegible]~~ [illegible] married before [illegible] her. [illegible] He was then asked [illegible] been [illegible] husband and claimant answered that [illegible] not know, ([illegible] of the supplemental testimony).

[illegible], [illegible] in [illegible] Commission the question whether or not [illegible] claimant Couch, [illegible]. [illegible] intendments of [illegible] burden is [illegible] legal ~~[illegible]~~, [illegible] prove [illegible] ll-[illegible]. [illegible] the Commission [illegible], as [illegible] also [illegible], we [illegible] the following:-

"[illegible] con-[illegible] Courts [illegible]." [illegible] v [illegible], 34, [illegible].

"[illegible] of a legal [illegible] is indulged [illegible] whereas [illegible] second [illegible] contract is shown to have [illegible] husband or [illegible] at the time of the second marriage, as the law will presume a divorce to have first been granted to the party marrying the second time,", Rogers Domestic, Rel. section [illegible]1.

"[illegible] where a marriage is once shown to have been celebrated [illegible], not only will the ceremony be presumed regular, [illegible] requirements will be presumed to have been complied with. [illegible] presumption includes the consent of the parties, lawful age, [illegible], physical, and other requisite capacity, as well as the absence of any and all disabilities, and the existence of all facts necessary to a valid marriage in every sense to the end that the marriage may be sustained," Rogers Domestic Rel. sec.107.

" The burden of rebutting rebutting evidence is upon the party seeking to [illegible] the same." Rogers Dom.Rel.sec,159.

" The presumption in favor of the legality of a marriage is one of the [illegible] to the law, Hadley v Rash, 69 Am,st R.34 & notes. The law, in opposition to a marriage actually proved, will not indulge the presumption that one of the contracting parties was already married, [illegible] notes to the above, and extended discussion on the subject of the presumption of a legal marriage.

To go a step further, suppose the Cherokee attorneys cannot find a record in any of the Cherokee Courts where claimant's wife was ever divorced from her first husband, the law we have already cited will support us in requiring them to show that she was ever legally married to the first husband, and that she ever really needed a divorce from him. The burden is upon them to show his last marriage illegal, and to do this they must first show that there was no divorce, and then they must show that the first marriage was legal, and that there was necessity for a divorce. [illegible] the Claimant was legally [illegible] n of [illegible]. We do not deem it necessary to brief this point of [illegible] n with the above report, will respectfully [illegible] our con[illegible] n.

Very Respectfully, Geo. E. McCulloch

Attorney for [illegible] Couch.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D 447.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 10, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, rejecting the application of Edward R. Couch for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.
Acting Chairman.

Enclosure E. No. 338.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-447

Muskogee, Indian Territory, February 20, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, rejecting the application of Edward R. Couch for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior, on February 10, 1903.

Respectfully,

Acting Chairman.

Cherokee D447

Edward W. Kouch

Cancelled and transferred to Cherokee R-819

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 11 1900
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF JAMES A HIBBS FOR THE ENROLLMENT OF HIMSELF AND CHILDREN AS CHEROKEE CITIZENS.

The said James A. Hibbs, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A James A Hibbs.

Q What is your age? A I will soon be forty-four.

Q Whatis your post office address? A Big Cabin.

Q What district do you live in? A Cooweescoowee.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q By blood or intermarriage? A By blood.

Q What degree of blood do you claim? A I don't know positively. I couldn't tell you how much Indian I am.

Q If you are an Indian you ought to find out how much you are, I should think. A About one-sixteenth, I suppose.

Q Well, for whom do you apply for enrollment? A Myself and children.

Q Is your wife living? A Yes, sir.

Q Well, don't you apply for her? A No.

Q What is her name? A Mary Hibbs.

Q Is she a Cherokee citizen by blood? A Yes, sir; she is a Cherokee citizen by blood.

Q What was her name before you married her? A Mary Tiner.

Q What is her age? A Forty-four.

Q When were you married to her? A About eighteen years ago.

Q Are you living with her now? A Yes, sir.

Q Why don.t you apply for her enrollment then? A Well, she will do that herself, I reckon.

Q Why don't you apply for her? A She was not admitted by the United States Court.

Q She applied, did she? A Yes, sir; of course.

Q When? A In 1896.

Q I thought she was a Cherokee by blood? A Well, she is.

Q But she has never been admitted, is that it? A Yes, sir. When they took an appeal they left her name off. That is just the way it was. They took an appeal to the United States Court and left her name out.

Q Have you any certificate of marriage? A No, sir; when we was married we didn,t neither of us have our rights proved up, but I have got witnesses to prove we was married by Judge Taylor.

Q Is Judge Taylor living? A No, sir; he is dead. Here is all the papers and you can read them and get what you can out of them. You understand it better than I do.

Q You present a certificate from the Clerk of the United States Court certifying that certain parties were admitted to citizenship. Your wife's name does not appear on that does it? A That is the trouble, she was not put in there; it was just neglected. This was before you, I reckon, once before, and my wife and childrens names all went before. You claim you have not got them and the Court claims they have not got them. I can prove I had the papers drawn up.

Q What are the names of your children? A Well, I know their names, but I don,t know their ages. I set their ages down, I have got something else to do besides try to recollect their ages. You can look at my hands and see I have been doingsomething besides thinking of their ages.

Q Don't you know their names? A Oh, yes.

Q Give me the name of the eldest child at home? A Alena Hibbs.

Q Do you know about how old she is? A It tells on there. Mary Recollects all their ages.

Q Well, where is Mary? A Come here Mary! She recollects every one of them.

Q Well, now what is your oldest child's name? A Alener Eliza Jane Hibbs.

Q How old is she? A Eighteen.

Q What is the name of the next one? A Dennis Bushyhead Hibbs.

Q How old is he? A Fifteen.

Q What is the name of the next one? A Laura Ellen Hibbs.

Q How old is she? A She is thirteen.

Q What is the name of the next one? A Bertha Ada Hibbs.

Q How old is she? A She is twelve.

Q What is the name of the next one? A Maggie Mayes Hibbs.

Q How old is she? A Ten.

Q The name of the next one? A Sarah Isabel.

Q How old is she? A She is eight.

Q The name of the next one? A Leona Elizabeth.

Q How old is she? A She is five.

Q The name of the next one? A That is all.

Q That is seven? A Yes, sir.

Q Are these children all alive and living with you? A Yes, sir.

Q You present this certificate of admission signed by the Clerk of the United States Court under seal, certifying that among others one James Hibbs was admitted to citizenship in the United States Court. Are you the identical James Hibbs mentioned in this certificate? A Yes, sir.

THE COMMISSIONER: This is under date of July 11th, 1899.

Q Now, does the name ofyour wife appear upon any of the rolls? A No, sir.

Q Do the names of your children appear upon any of the rolls? A No, sir.

Q These children were all born before you were admitted, were they not? A Yes, sir.

Q Do their names appear upon any of the rolls of the Cherokee Nation? A No, sir.

Q The name of your wife does not appear upon any of the rolls of the Cherokee Nation? A No, sir.

Q When did you say you married her? A In 1882.

Q Does the name of your wife's mother or father appear upon any of the rolls of the Cherokee Nation? A No, sir.

Q You apply for citizenship for yourself and children by reason of being admitted to citizenship by the United States Court in the year 1899? A Yes, sir.

Examination by Mr. W. W. Hastings, representative of the Cherokee Nation.

Q Where were you born? A In Alabama. That is what my father said. I reckon I was.

Q Where were you raised? A I have been in the Cherokee

Nation half my life .

Q When did you come to the Cherokee Nation? A Why, several years ago. I will soon be forty-four, and I have been here half my life.

Q How long have you been here? A Well, about twenty years.

Q Where were you married? A Here in the Cherokee Nation. Didn't I tell you that a while ago. Judge Taylor married us.

Q Have you lived in the Cherokee Nation ever since you were married? A Ever since, and before.

Q Where were these children born? A All born right here and raised right here in the Cherokee Nation, every one of them.

Q All living in the Cherokee Nation now? A All living in the Cherokee Nation now, and have been all their life; they ain't been out.

Q Well, I just wanted to get one or two straight answers from you. A Well, that is correct.

THE COMMISSIONER: You say you have got no proof of your marriage at all? A Yes, sir; I have, I couldn,t get these men to come here.

Q Well, you will have to have verbal proof. We don't take any affidavits about these things.

A Well, how am I going to get these men here? A

Q Well, sir, I don,t know. That is your part, not mine.

A. There were two men present at the time.

Q Where were you married?--in the State? A No, sir; married in the Cherokee Nation, near Webbers Falls.

Q You didn,t have any marriage license? A No, sir; we was non-citizens at that time, and couldn't get no Cherokee license.

Q Did you get a marriage certificate? A Why, no I didn't.

Q You didn,t get any certificate even? A No; he had no right to issue any certificate when we was both noncitizens.

Q I am not asking you to discuss the matter. He had as much right to give you a marriage certificate as he had a right to marry you. A He married us all right.

THE COMMISSIONER: James A. Hibbs presents a certificate of citizenship as described in the testimony.

Q You don,t apply for your wife? A No, I didn't think it was necessary. She is more Cherokee than I am.

THE COMMISSIONER: And he applies for the admission of himself and his children, as specified in the testimony. The name of James A. Hibbs does not appear upon any roll of the Cherokee Nation, and neither do the names of any of his children. But, by virtue of his admission, and he having made satisfactory proof as to his residence, he will be listed for enrollment by this Commission as a Cherokee citizen by blood. Final judgment as to the admission of his children will be suspended, and their names will be placed upon a doubtful card, they not being admitted, and having been born before his admission, and no satisfactory proof as to marriage being filed. He avers that he married one Mary Tiner in the year 1881. Said marriage was solemnized in the Indian Territory by one Judge Taylor, who is now deceased. He avers that he and his wife at that time were both non-citizens.

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James A. Hibbs—Jr.
et. al.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. S. McLean

Subscribed and sworn to before me this 11th day of October A. D. 1900.

Commissioner.

D. 448.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JAN 31 1901
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T. January, 28th 1901.

In the matter of the application of James A. Hibbs et als. for enrollment as Cherokee citizens. SUPPLEMENTAL TESTIMONY, D 448

James A. Hibbs being first duly sworn before Commissioner C. R. Breckinridge, testified as follows-

Q What is your name? A. James A. Hibbs.
Q You applied at Vinita for the enrollment of yourself and children? A. Yes sir.
Q What is your post office? A. Big Cabin.
Q And you live in Cooweescoowee district? A. Yes sir.
Q When were you admitted to citizenship by the United States Court? A. Can't tell the exact time----I have the papers over there---- I can go and look.
Q Where are the papers? A. Over there (pointing across the room) (Applicant also goes after said papers and hands them to the Commissioner)

The applicant presents an official statement from the Clerk of the United States Court furnished July 11th 1899, showing that certain claimants for citizenship in the Cherokee Nation were admitted to citizenship on the 15th of December, 1897 by the Honorable William M. Springer, Judge of the United States Court for the Northern District of the Indian Territory; among those persons there appears the name of James Hibbs.

Q You claim that as your name do you? A. Yes sir.

Said certificate shows that the applicant was admitted on appeal from the Commission to the Five Civilized Tribes.

Q Mr. Hibbs, will anybody else have occasion to present this certificate? A. Yes sir I guess it will come here again.

This is filed herewith, and the applicant is desired to inform others who may apply under him, that it is in case D-448.

The records of the Commission, Docket "B", page 105, Case #3598 entitled " Jessie B. Tyner versus The Cherokee Nation ", shows that Court case #191, the adverse judgment of the Commission was reversed by the United States Court; application having been made in September, 1896 by the parties in that case, among whom appears the name of James Hibbs.

Q Now Mr. Hibbs, when did you state that you and your wife were married? A. In '81.
Q Were you ever married except to this wife? A. No sir never was married before or since.
Q Was she ever married except to you? A. Too hard for me, you will have to ask her.
Q Have you and she always lived together ever since you and she were married? A. Yes sir.
Q And all the time in the Cherokee Nation? A. Yes sir, never been out.
Q Your children for whom you made application in September, are all minors now are they, and under twenty-one? A. My memory is very bad about recollecting the ages of my children, I'll have to ask my lady.
Q Are any of these children married? A. Yes sir.
Q Who? A. My eldest daughter.

Q What is her name? A. Alena E. J.
Q When did she marry? A. I forget, I think it has been two months.
Q Then it has been since you applied for her enrollment? A. Yes sir.
Q To whom is she married now? A. Mont Hendricks—that haint his right name, first name, but I forget what it is.
Q Is he a white man? A. Yes sir.

WILLIAM DREW, called and sworn as a witness, testified as follows,-

Q What is your name? A. William Drew.
Q How old are you Mr. Drew? A. About 40 years old.
Q What is your post office address? A. Fort Gibson.
Q In what district do you live? A. In Illinois district.
Q How long have you lived in the Cherokee Nation? A. I have been here all the time except during the war.
Q Practically all your life? A. Yes sir,
Q Do you know Mr. Hibbs here? A. Yes sir.
Q Know his wife? A, Yes sir.
Q What is her name? A. Mary.
Q What was her name when she married him? A. Mary Tyner.
Q About how long has it been since she married? A. Been a good long while, don't remember exactly.
Q Who was her father? A. Luke Tyner I think .
Q Is he dead? A. I don't know.
Q What is her mother's name? A. I don't know.
Q Did you know her well before she married this applicant? A. No sir.
Q Did you ever hear of her having been married before? A. No sir.
Q Were you present at their marriage? A. Yes sir.
Q Who married them? A. Sam Taylor—Judge Taylor.
Q Is he dead now? A. Yes sir.
Q Where were they married? A. At Judge Taylor's house near Webbers Falls.
Q Have they lived together ever since their marriage as husband and wife? A. Cant tell you that.
Q How far do they live from you? A. I live at Fort Gibson and they say they live on Big Cabin——I don't even know where that is— it is some where in Cooweescoowee district though.
Q You have not lived in their neighborhood since they were married? A. No sir.

JAMES B. TYNER, called and sworn as a witness, testified as follows-

Q What is your name? A. James B. Tyner.
Q How old old are you? A. 46.
Q What is your post office address? A. Webbers Falls.
Q What district do you live in? A. Canadian.
Q Do you know the applicant here, Mr. James A. Hibbs? A. Yes sir.
Q How long have you known him? A. Ever since '80.
Q How long have you lived in the Cherokee Nation? A. Twenty-six years
Q Do you know his wife? A. Yes sir.
Q What is her name? A. Mary
Q What was her name before she married Mr. Hibbs? A. Mary Tyner.
Q Did you know her before she married Mr. Hibbs? A. Yes sir.
Q What was her father's name? A. Hiram Tyner.
Q Not Luke Tyner? A. No sir.
Q What was the name of her mother? A. Patsie Tyner.
Q Are her parents both dead? A. Yes sir.
Q About how long has it been since she married him? A. In March 1881.
Q Were you at their marriage? A. Yes sir.
Q Where were they married? A. At Sam Taylor's ,eight miles west of Webbers Falls.

Q Who married them? A. Sam Taylor did.
Q He was a District judge was he? A. He was a judge, I dont know whether he was a District Judge or a Circuit Judge.
Q Did they have a license? A. I dont think they did.
Q Were there many people at the wedding? A. No sir not many, we went there after night——maybe a hand or two was there.
Q Was his wife ever married before she was married to him? A. Dont think she was.
Q How long have you known her? A. Ever since I can remember, she is a king of relative of mine.
Q What relation is she to you? A. My half brother's wife.'
Q Is Mr. Hibbs your half brother? A. No sir.
Q How could she be your half brother's wife then if he is not your half brother and she was never married to anyone else? A. I meant my half brother's daughter.
Q Have you known her all her life? . A. Well not exactly for she moved into Missouri in 1874 and then into Arkansas and then back here.
Q Did you never hear of her being married to any other man except this man Hibbs? A. No sir.

By Mr. W. W. Hastings, Cherokee Representative:

Q Have you any reason to suspect that she was ever married before? A No sir.
Q Did she ever have any children before she married this man ? A. Yes sir.
Q How many? A. Two.
Q She had been living with some other man then before she married this man Hibbs? A. I dont know whether she lived with him or not.

By the Commission:

Q Are these children living? A. Yes sir.
Q What are their names? A. William Chambers and Josie Hair.
Q How old is William Chambers? A. Cant tell you that, they was born in Arkansas before she came here.
Q Both of these children were born before this woman married her present husband? A. Yes sir.

MARY HIBBS, being called and sworn testified as follows:

Q What is your name? A. Mary Hibbs.'
Q How old are you? A. 46.
Q Are you the wife of James A. Hibbs? A. Yes sir.
Q When were you married to him? A. On the 18th of March, 1881.
Q By whom were you married? A. By Sam Taylor.
Q He was a judge was he? A. Yes sir.
Q Have you and your husband been living together continuously ever since your marriage to him? A. Yes sir.
Q Were you ever married before you married him? A. Yes sir.
Q Who to? A. Soloman Hair.
Q But you had two children by different men before you married Hibbs? A. Yes sir.
Q One of them is named William Chambers? A. Yes sir.
Q Were you ever married to a man named Chambers? A. No sir.
Q But you lived with him? A. No sir.
Q Were you lawfully married to Hair? A. Yes sir.
Q Where were you married to him? A. At Illinois Station.
Q In the Cherokee Nation? A. Yes sir.
Q When were you married to him? A. In 18[illegible].

Q Who married you? A. Man named Williams I believe.
Q What was he? A. Preacher.
Q How long did you live with Soloman Hair? A. Just a little while, till he died.
Q As much as one year? A. Yes sir more than that.
Q As much as two years? A. Hardly as long as that.
Q Did he die before you married your present husband? A. Yes sir.
Q And you never lived with any other man as husband and wife before your marriage to Hibbs except with Soloman Hair? A. No sir.

The applicant, James A. Hibbs, recalled and examined by theCommission:

Q Why didn't you apply for the enrollment of your wife as a Cherokee by inter-marriage? A. In taking that appeal to the United States Court the lawyers claimed that my name would be sufficient, and that I could enroll her when a roll was made----said that the head of a family carried all the others with it. It was a mistake of the lawyers in taking an appeal in the case.

By Mr. W. W. Hastings-

Q Did you apply for her and your children when you put in your application there? A. Yes sir--but I cant find the papers. I can prove that we all applied .

By the Commission:

Q Don't you think that you had better xxxxx embrace your wife in your application and find out if she is entitled to be enrolled? A. Yes sir

* * * The applicant has appeared to give additional testimony in case D-448, relating to the enrollment of his seven children as set forth in the testimony taken in this case at Vinita, September 26th 1900. He did not apply at that time for the enrollment of his wife. It appears from the testimony that she may be entitled to enrollment. It is shown by satisfactory personal testimony that the applicant and his wife Mary were married in 1881, and that they have lived together in the Cherokee Nation ever since. She states that she was once previously married, but that her former husband was dead before she married her present husband. He states that he was never previously married. He is shown to have been admitted to Cherokee citizenship by the United States Court on December 15th 1897, official evidence of which is filed herewith. The proceedings out of which this admission grew, are shown to have been commenced in 1896 before the Dawes Commission. It may be that under the Cherokee law of December,16th 1895, relating to the acquirement of right to citizenship by intermarriage, she may not be entitled to enrollment, but for the further consideration of her rights, she will now be listed as a Cherokee by intermarriage, and her name will be placed on card D-448, the same being the card containing the names of her children. This testimony will be filed with that case, D-448, being applicable alike to the case of the children and their mother, in the light of the evidence now adduced as to the marriage between the applicant and his wife, and their seven children, all being either minors or unborn at the time of his admission to citizenship. There appears to be no doubt as to their enrollment as Cherokees by blood, but this testimony will be placed with their case to await final decision when it is taken up in its regular order.

NOTE:

Attention is called to the original records in the case of Jessie L.

Tyner, #3588, before the Dawes Commission, and Court number 181, to [illegible] see is there is anything in the documents and decision that effect the rights of the applicant's wife or children.

$ $

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 30th of January, 1901.

Commissioner.

D448

[illegible]
FILED
MAR [illegible] 1902

ACTING CHAIRMAN.

"R".

Cherokee D 448

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of James A. Hibbs for the enrollment of his wife and children as Cherokee citizens.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that the application of his wife and children to be enrolled as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February,1902; receipt has been acknowledged of the Commission's letter, and on this day, to-wit: 27th day of February,1902, the applicant appears in person.

JAMES A. HIBBS, being first duly sworn, and being examined testified as follows:
BY COMMISSION:

Q What is your name? A James A. Hibbs.
Q How old are you?A 44 years old.
Q What is your post-office address? A Big Cabin.
Q What is the name of your wife? A Mary Hibbs.
Q What is the nameof your eldest daughter? A Eleanor E. J. Hibbs.
Q What is the nameof the next child? A I don't know how she has got them down there. (Hands Commission a list.)
Q Dennis B.; name of the next one is Laura E.? A Laura E.
Q Name of the nextone is Bertha A.? A Yes sir.
Q Maggie M.? A Yes sir.
Q Sarah I.? A Yes sir.
Q Name of the next one is Leona B.? A Yes sir.
Q How do you spell Leona? A I tell you I aint got no education.
Q You want it spelled the way it is down on this paper? A Yes sir.
COMMISSION: L-e-o-n-i-e E.
Q The name of the next child is Mary A, is it? A Thatis my wife.
Q Is there any statement you desire to make relative to the enrollment of your wife and children as citizens of the Cherokee Nation? A No, there has already been sufficient proof introduced is the way I consider it; it is the mistake though and they promised to correct the mistake, and they said if they needed me they would notify me.
Q What is that mistake? A Why instead of putting my wife on the blood roll they have got her down on the adopted roll. She is a full sister to John W. Tyner and Jesse L. Tynerhe is an uncle of my wife.
Q Doesn't your wife claim a right to enrollment as a citizen by intermarriage? A No sir, it is by blood.
Q She does not claim to be a citizen by adoption then? A No sir, she is a Cherokee by blood; they just put her on the adoption roll, the Commissioners did; I told them she ought not to be there.
BY MR. HASTINGS:
Q Then you both claim as Cherokees by blood? A Yes sir, Jesse L. Tyner put in my business for me. He attended to it for me.
Q Do you submit this case in behalf of your wife and children to the Commission for consideration? A Certainly, yes sir.
BY MR. HASTINGS:

The Cherokee Nation asks that a copy of all the records in the case of Jesse L. Tyner, before the Dawes Commission in 1896, same being numbered 3598, together with the records on appeal in that case and the records of the Court in the same case, same being No.191, be filed and made part of the record in this case.

[illegible] The request of the Cherokee Nation will be [illegible]

[illegible] James A. [illegible], on behalf of his wife and child [illegible] the Cherokee Nation present [illegible] case to the Commission for final consideration; same is ordered closed and reported to the Commission for final consideration, based upon the evidence now of record.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
14 1902
ACTING CHAIRMAN.

File in D-448.

Jesse L. Tyner et al,
vs. No. 191.
Cherokee Nation.

Mr. N. A. Gibson, Special Master to whom this case was referred submits the following report:

IN THE UNITED STATES COURT IN THE INDIAN TERRITORY
NORTHERN DISTRICT AT MUSKOGEE.

JESSE L. TYNER ET AL
No. 191 VS
CHEROKEE NATION.

REPORT OF SPECIAL MASTER.

I, N. A. Gibson, Special Master herein, respectfully show to the Court that in accordance with the order of reference herein, I have examined proof and pleadings in this cause, which are herewith filed and made a part of this report, and that I find as follows:

I.

That this cause was instituted on Sept. 8, 1896, at which time application was made to the COMMISSION TOTHE FIVE CIVILIZED TRIBES for citizenship by blood in the Cherokee Nation of Indians. That the cause was tried by said Commission and the application denied on Oct. 23, 1896, no reason being given for the decision and that the claimants appealed therefrom to this Court on Jany. 12, 1897.

II.

That this application was presented by Jesse L. Tyner, John W. Tyner, Lewis C. Tyner, John Carter, Belle Carter, Wm. Smith, James Hibbs, Robert Williams and George M. Hibbs, all of whom seek enrollment in the Cherokee Nation by reason of the fact that they claim to be lineal descendants of Dempsey Tyner, who lived among the Cherokees east of the Mississippi River and whom they claim to have been a Cherokee Indian by blood.

III.

That the claimants filed in the support of their application the affidavits of Elizabeth Tyner, Caroline A. Rogers, M. Hart, James S. Gray, Wm. J. Spicer, Catherine Styles, Elizabeth Rose, N. J. Hibbs, Jesse L. Tyner, Fannie Latty, Sarah Webb and Thomas Ragsdale. That these witnesses state that Dempsey Tyner, the ancestor through whom these claimants trace their blood was a Cherokee Indian by blood. That he lived in Hamilton County in the state of Tennessee, afterwards moving to Alabama. That Dempsey Tyner had a son by the name of Lewis Tyner and that both of these men were recognized as Cherokee Indians by blood, Dempsey Tyner being a half breed. That Jesse L. Tyner, the claimant herein is a son of Lewis Tyner, and the other claimants are the grand children of Lewis Tyner and of his brothers and sisters and are all lineal descendants of Dempsey Tyner. That Lewis Tyner came to the Indian Territory in 1849 o r 1850.

IV.

That the claimants contend that they having shown that they are the descendants of Dempsey Tyner, who was a half breed Cherokee Indian who lived among the Cherokee Indians in the state of Tennessee, they are entitled to be enrolled as citizens of said Nation under the law applicable to this case, while the Cherokee Nation contend that the claimants not having shown that Dempsey Tyner, the ancestor through whom they claim, is now or has been a recognized citizen of the Cherokee Nation since the removal of that Nation west to the Indian Territory as at present located and defined or that his name appears on any authenticated roll of said Nation, or that they or any of their ancestors now reside or have resided in the Cherokee Nation as citizens thereof since the removal of said Nation, they are not now entitled to admission to Cherokee citizenship.

V.

The premises considered I find that the claimants are all lineal descendants of Dempsey Tyner who was a Cherokee Indian by blood who lived in the state of Tennessee Hamilton County, that the claimants are all Cherokee Indians by blood and reside in the Cherokee Nation, Indian Territory, where they have resided since 1849, almost constantly, that it is stated in the testimony of Jesse L. Tyner that Lewis Tyner his father was enrolled in 1828 or in 1835 and also in 1851, upon Cherokee Rolls, but that no copy or extract of the rolls has been introduced in support of this bare statement. That the claimants do not show that Dempsey Tyner was ever enrolled as a citizen of the Cherokee Nation after the removal of said Nation west to the present location in the Indian Territory, or that he ever resided therein as a citizen thereof.

I respectfully ask that the Court will allow me a reasonable fee for my services herein.

Respectfully submitted this 9 day of Oct. 1897.

N. A Gibson,
SPECIAL MASTER.

My fee paid.
No exceptions filed.

BY THE COURT:

From this report it appears that the claimants in this case base their right to be enrolled as citizens of the Cherokee Nation upon the ground that they are the descendants of Dempsey Tyner, who was a half-breed Cherokee Indian, who lived among the Cherokee Indians east of the Mississippi River in the State of Tennessee, and the Master so finds. He also finds that they reside in the Cherokee Nation, Indian Territory, where they have resided since 1849, almost constantly. It does not appear that Dempsey Tyner was ever enrolled as a citizen of the Cherokee Nation after the removal of said Nation west to its present location, or that he ever resided as a citizen therein, but it appears from the Master's report that the claimants have resided in the Cherokee Nation since 1849, almost constantly, as stated by the Master.

If the claimants came to the Indian Territory in 1849, they came during the time when the general invitation was extended to all Cherokees to locate in the Cherokee Nation without being required to petition the council. If they have resided therein bona fide since that time they are entitled now to be enrolled as citizens of the Cherokee Nation. No exceptions have been taken to the Master's report, and the Court is therefore of the opinion that the claimants are entitled to be enrolled as citizens of the Cherokee Nation.

The judgment of the United States Commission rejecting this case is therefore reversed and the application of the claimants to be enrolled as citizens of the Cherokee Nation is allowed.

Endorsed on the back as follows:

JESSE L. Tyner et al vs Cherokee Nation. Final Report of Special Master. Filed Oct 9 1897 Jas. A. Winston, Clerk.

IN THE UNITED STATES COURT FOR THE NORTHERN
JUDICIAL DISTRICT OF THE INDIAN TERRITORY at
MUSKOGEE.

Muskogee, I.T., October 7th, 1898.

RECEIVED of A. L. Aylesworth, Secretary of the Commission to the Five Civilized Tribes, in compliance with an order issued by the Honorable William M. Springer, Judge, the original papers in the citizenship case of John W. Tyner, No. 1411, being an application for citizenship with supporting evidence filed before said Commission under the act of June 10th, 1896. "To complete the case of Jesse L. Tyner," appealed.

Jas. A. Winston,
Clerk of United States Court, Nor. Dist.

(Seal)

Endorsed on the back as follows: #1412. Com. #121. Jno. H. Tyner vs Cherokee Nation.

I, Arthur G. Croninger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy, and that the same is a true and complete copy of the original.

Arthur G. [illegible]

1.7D
661

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of James A. Hibbs, et. al. for enrollment as citizens by blood of the Cherokee Nation, consolidating the applications of,

James A. Hibbs, ... Cherokee---3531

Eleanor E. J. Hibbs, et. al. . . . Cherokee D 448

DECISION.

---oOo---

The record herein shows that on September 26, 1900, James A. Hibbs appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself, his wife Mary Hibbs, and his seven children, Eleanor E. J., Dennis B., Laura E., Bertha A., Maggie M., Sarah I., and Leonie E. Hibbs as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory on January 28, 1902, and on February 27, 1902. Since the date of this application Eleanor E.J. Hibbs has been married to one James E. Hendricks, and on January 28, 1901, an affidavit was filed with the Commission showing the birth of Ralph H. Hendricks, the issue of that marriage.

The principal applicant, James A. Hibbs, offered in evidence a certificate from the Clerk of the United States Court in the Indian Territory for the Northern District, in the case of Jesse L. Tyner, et. al. vs. Cherokee Nation, showing that one James Hibbs was admitted to citizenship in the Cherokee Nation by the judgment of said Court, and the applicant claims that he is the person therein named. An examination of the records of the Commission to the Five Civilized Tribes shows that one Mary Hibbs filed her application with said Commission under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321) for the admission to citizenship in the Cherokee Nation, among others, of herself, her husband, James Hibbs, and her children, Eleanor E. J., Dennis B., Laura E., Bertha A., Maggie M., Sarah I. and Leonie E. Hibbs; that the said Mary Hibbs claimed the right of admission to citizenship as the great grand-daughter of Dempsey Tyner, and that her said application, which is numbered 2807, was denied September 8, 1896, and no appeal appears to have been taken from such decision.

A further examination of the records of the Commission, and also of the proceedings in the case of Jesse L. Tyner, et. al. vs. Cherokee Nation, appealed from the Commission to the Five Civilized Tribes to the United States Court in the Indian Territory for the Northern District shows that the proceedings in several applications decided by the Commission were transmitted to the United States Court, by direction of the Clerk of said Court, to be used in the trial of the said Jesse L. Tyner case. Among the proceedings and papers so transmitted was the application of Newton I. Hibbs, et. al. No. 3568, which said application included, among others, one James D. Hibbs, claiming as the descendant of Dempsey Tyner.

The report of the Master in Chancery in the Jesse L. Tyner case shows that the parties prosecuting the appeal and named therein, namely; Jesse L. Tyner, John W. Tyner, Lewis C. Tyner, John Carter, Belle Carter, William Smith, James Hibbs, Robert Williams and George M. Hibbs were all found to be the descendants of Dempsey Tyner. No persons are named in the judgment of the Court and it has been found impossible to determine whether the appeal included, or was intended to include any persons other than the nine claimants named in the report of the Master in Chancery.

As the application of Mary Hibbs, et. al. Number 3607, does not appear to have been appealed, and it appearing that the said Mary Hibbs, and not her husband James Hibbs, was the applicant claiming through Dempsey Tyner, and that there was a James Hibbs, claiming as the descendant of said Dempsey Tyner, included in the application of Newton I. Hibbs, et. al. Number 3525, transferred to the United States Court in connection with the Jesse L. Tyner case, it is the opinion of this Commission that the principal applicant herein is not the same person as the James Hibbs named in the proceedings of the United States Court in the case of Jesse L. Tyner, et. al. vs. Cherokee Nation, and that the applicant, and his wife and seven children are the persons included in the said application of Mary Hibbs, et. al. Number 2607, all of which said persons were denied admission to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes, and that no appeal was taken from such decision.

The child Zilph H. Hendricks, born since the date of this application has no rights not possessed by its mother.

It is, therefore, the opinion of this Commission that the application of James A. Hibbs for the enrollment of himself, his wife Mary Hibbs, and his seven children, Eleanor H.J. Hibbs, Dennis B. Hibbs, Laura E. Hibbs, Bertha A. Hibbs, Maggie M. Hibbs, Sarah I. Hibbs and Lonnie E. Hibbs, as citizens by blood of the Cherokee Nation, and also the application for the enrollment of Zilph H. Hendricks as a citizen by blood of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC - 1 1902

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of James A. Hibbs, et al., for enrollment as citizens by blood of the Cherokee Nation, consolidating the applications of:

James A. Hibbs, et al., Cherokee 3551
Eleanor E. J. Hibbs, et al., " D 448 /

D E C I S I O N.

The record in these cases shows that on September 26, 1900, James A. Hibbs appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself, his wife Mary, and his seven children, Eleanor E. J., Dennis B., Laura E., Bertha A., Maggie M., Sarah I. and Leonie E. Hibbs, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on January 29, 1901, February 27, 1902, and March 21, 1903. Since the date of this application Eleanor E. J. Hibbs has been married to one James B. Hendricks, and on January 26, 1901, an affidavit was filed with this Commission showing the birth of Ralph R. Hendricks, the issue of that marriage.

The Commission to the Five Civilized Tribes, on December 1, 1902, rendered a decision denying the enrollment of the applicants herein. Thereafter the said applicants, through their attorney, filed a petition for a rehearing in said case, and the Department, in its letter of February 19, 1903 (I.T.D. 7886-1902 1667-1903), granted the petition for a rehearing and remanded the case. Pursuant to said Department's letter, the proceedings at Muskogee, Indian Territory, on March 21, 1903, were had.

The principal applicant, James A. Hibbs, offered in evidence a certificate from the clerk of the United States Court for the Northern District, Indian Territory, in the case of Jesse L. Tyner, et al., versus Cherokee Nation, showing that one James Hibbs was admitted to citizenship in the Cherokee Nation by the judgment of said court. The applicant claims that he is the person therein named.

An examination of the records of the Commission to the Five Civilized Tribes shows that one Mary Hibbs filed her application to said Commission, under the act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Cherokee Nation;

among others, of herself, her husband James Hibbs, and her children, Eleanor E. J., Dennis R., Laura E., Bertha A., Maggie M., Sarah I. and Leonie E. Hibbs; that the said Mary Hibbs claimed the right of admission to citizenship as the great grand-daughter of Dempsey Tyner, and that her said application, which is numbered 5607, was denied and no appeal taken therefrom.

In the testimony taken at Muskogee, Indian Territory, on March 21, [illegible], it is shown that applications for citizenship were made to the Commission in family groups, and that James A. Hibbs was included in his family group, as hereinbefore shown, and it is not shown that he was included elsewhere. It is shown that there was, at the time of the application in 1896, one, James Hibbs, who was related to the Tyner family, and that he was living at that time "in Arkansas, sixty-five miles below Fort Smith."

A further examination of the records of the Commission, and also in the proceedings in the case of Jesse L. Tyner, et al., versus Cherokee Nation, appealed from the Commission to the Five Civilized Tribes to the United States Court for the Northern District, Indian Territory, shows that the proceedings in several applications decided by the Commission, were transmitted to the United States Court by direction of the clerk of said court to be used in the trial of the said Jesse L. Tyner case. Among the proceedings and papers so transmitted was the application of Morton I. Hibbs, et al., number 3595, which said application included, among others, one James D. Hibbs, claiming as the descendant of Dempsey Tyner.

The report of the Master in Chancery in the Jesse L. Tyner case, shows that the parties prosecuting the appeal and named therein, namely; Jesse L. Tyner, John W. Tyner, Lewis C. Tyner, John Carter, Belle Carter, William Smith, James Hibbs, Robert Williams and George W. Hibbs, were all found to be the descendants of Dempsey Tyner. No persons are named in the judgment of the court and it has been found impossible to determine whether the appeal included, or was intended to include, any persons other than the nine claimants named in the report of the Master in Chancery.

The child, Zilah H. Hendricks, born since the date of this application, has no rights not possessed by its mother.

It is the opinion of this Commission that James A. Hibbs is the identical person named in the application of Mary Hibbs, et al., Case Number 5607, and is not the James Hibbs included in the case of Jesse L. Tyner, et al., Court Number 181. Therefore, the application for the enrollment of James A. Hibbs, Mary Hibbs, Eleanor E. J. Hendricks, (formerly Hibbs), Dennis R. Hibbs, Laura E. Hibbs, Bertha A. Hibbs, Maggie M. Hibbs, Sarah I. Hibbs, Leonie E. Hibbs and Zilah H. Hendricks, as citizens by blood of the Cherokee Nation should be denied, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this SEP 10 1903

F.R. Cherokee D-448.

COPY

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mary Hibbs as a citizen by intermarriage of the Cherokee Nation.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Muskogee, Indian Territory, January 28, 1901, application was received by the Commission to the Five Civilized Tribes for the enrollment of Mary Hibbs as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 27, 1902.

The records further show that on December 1, 1902, the Commission to the Five Civilized Tribes rendered its decision herein denying said applicant's right to enrollment as a citizen by intermarriage of the Cherokee Nation.

Thereafter the applicant, through her attorney, filed a petition for rehearing in this case and the Department in its letter of February 12, 1903 (I.T.D. 7896-1902, 1567-1903), granted the petition for rehearing and remanded the case. Pursuant to said letter of the Department further proceedings were had at Muskogee, Indian Territory on March 21, 1903.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Mary Hibbs, formerly Hair nee Tyner is a white woman who was married in 1879 to one Solomon Hair with whom she resided in the Cherokee Nation until 1880, when the said Solomon Hair died. Solomon Hair is identified on the Cherokee authenticated Tribal Roll of 1880, Illinois District, Page 542, No. 922, as a native Cherokee.

On March 18, 1881, the applicant was married to James A. Hibbs, a citizen by blood of the Cherokee Nation, whose name is included on the approved Tribal Roll of citizens by blood of said Nation, opposite No. 31994, with whom the applicant has since resided in the Cherokee Nation.

Neither the applicant nor her husband, James A. Hibbs, can be identified on the Cherokee authenticated Tribal Roll of 1880, or the Cherokee Census Roll of 1896.

In view of the foregoing, it is considered that the applicant, Mary Hibbs, did not marry a citizen by blood of the Cherokee Nation prior to November 1, 1875.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs the United States, Nos. 125, 126, 127 and 128, the said applicant, Mary Hibbs, is not entitled under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), to enrollment as a citizen by intermarriage of the Cherokee Nation, and her application for enrollment as such is accordingly denied.

SIGNED Tams Bixby
Commissioner.

Dated at Muskogee, Indian Territory,
this FEB 20 1907

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee 3461.
Cherokee D-446.

Muskogee, Indian Territory, December 3, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, rejecting the application of James A. Hibbs for the enrollment of himself, his wife Mary, his seven minor children, Eleanor E. J., Bonnie B., Laura E., Bertha A., Maggie M., Sarah I. and Leonie B. Hibbs, and his grand child, Elijah H. Hendricks, as citizens by blood of the Cherokee nation

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. H-89.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee 3531
Cherokee D-448

Muskogee, Indian Territory, March 3, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby notified that the application of James A. Hibbs, et al., for the enrollment of himself and family as citizens of the Cherokee Nation has been remanded by the Secretary of the Interior for the taking of further testimony as to the identify of the James A. Hibbs included in that application with the James Hibbs admitted to citizenship in the Cherokee Nation under the provisions of the Act of Congress approved June 10, 1896.

Any testimony which you may have to introduce upon this point may be presented before the Commission at its offices at Muskogee, Indian Territory, on March 21, 1903.

Respectfully,

Chairman.

GRS

COMMISSIONERS
TAMS BIXBY.
THOMAS B NEEDLES
C. R BRECKINRIDGE
W. E STANLEY

ALLISON L AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-448
Cherokee-3531

Muskogee, Indian Territory, September 11, 1903

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of James A. Hibbs for the enrollment of himself and others as citizens of the Cherokee Nation, the Commission's decision and record in which case was remanded by the Department for further testimony on February 12, there is herewith enclosed a copy of the record of proceedings, together with a copy of the Commission's decision dated September 10, 1903, rejecting his application for the enrollment of himself, his wife Mary Hibbs, his seven minor children, Dennis B., Laura E., Bertha A., Maggie M., Sarah I., Leonie E. Hibbs and Eleanor E. J. Hendricks, and his grandchild, Zilph Hendricks.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encs D-24

MD

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

WM. O. BEALL
SECRETARY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee #3531 &
D-448.

Muskogee, Indian Territory, April 18, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

The Commission is in receipt of Departmental letter of March 30, inclosing a copy of Commissioner of Indian Affairs' letter of March 17, recommending the reversal of the Commission's decision of September 10, 1903, rejecting the applications for the enrollment of James A. Hibbs et al., as citizens by blood of the Cherokee Nation, cases numbers 3531 and D 448.

In accordance with the Department's instructions you are advised that you will be allowed thirty days from date hereof in which to file with the Commission, for transmission to the Secretary of the Interior, any argument you may desire to submit in these cases, a copy of which argument you will be required to furnish the principal applicant.

Respectfully,

Commissioner in Charge.

MD9

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

WM. O. BEALL,
Secretary

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee _ 3531

D-448.

Muskogee, Indian Territory, August 8, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 10, 1903, rejecting the application of James Hibbs for the enrollment of himself, his wife Mary Hibbs, and his seven minor children, Eleanor E. J. Hibbs, now Hendricks, Dennis B., Laura E., Bertha A., Maggie M., Sarah I. and Leonie E. Hibbs, and his grandchild Zilph H. Hendricks, as citizens by blood of the Cherokee Nation, was reversed by the Secretary of the Interior on July 21, 1904, as to all except the said Mary Hibbs.

The Department's letter states that the application for the enrollment of Mary Hibbs will not be acted upon until the Court of Claims shall have rendered a decision as to the rights of intermarried Cherokees.

Respectfully,

Commissioner in Charge.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 448.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 26, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 26, 1907, denying the application for the enrollment of Mary Hibbs as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl.HJ-26.
HJC

Cherokee D 440

Minnie
~~Alenta E.~~ J. Hibbs
~~et al~~

OCT 14 1907 [illegible] transferred
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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 29 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 26, 1900.

In the matter of the application fo William Warner for the enrollment of himself, wife and chilcren as citizens of the Cherokee Nation; said Warner being sworn by Commissioner C.R. Breckinridge, testified as follows:

Delaware blood.

Q Give me your name, please? A William Warner.

Q How old are you? A 53.

Q What is your post office? A Vinita.

Q What district do you live in? A Delaware.

Q Who is it you want to have put on the roll? A Myself, wife and children.

Q How many children? A Five.

Q Are you a Cherokee by blood? A Adopted.

Q What is yor wife, Cherokee? A She is a Delaware.

Q Have you your marriage license and certificate?

Applicant presents an official copy of the records of the Delaware district, showing that he was licensed by the Clerk of the Dstrict, April 20, 1880, to marry Mary McNulty, a citizen of the Cherokee Nation, and that they were united in marriage upon the same date of the license by the Clerk of the district. This is filed herewith.

Q That wife Mary McNulty is she Cherokee? A Yes, sir.

Q Is she a native of the Cherokee Nation? A Yes, sir.

Q Is she living now or dead? A I do not know.

Q How long did you live with her? A About three of four years.

Q You then separated? A Yes, sir.

Q Did you get a diverse from her? A Yes, sir.

Q Have you copy of the decree of divorce? A No, sir.

Q Where did you get your divorce? A Delaware district.

Q Was the divorce granted to you or your wife? A Granted to me.

Q Have you married since you separated from that wife? A Yes, sir.

Q To whom did you marry your second time? A Eliza Marker.

Q Is she living now? A Yes, sir.

Q Is she Cherokee or white woman? A She is Delaware.

Q How old is she? A About 30 I think.

Q Have you a copy of your marriage license and certificate? A No sir

Q Did you get out a license? A No,

Q When were you married to her? A About 12 years ago.

Q Is she living with you at this time? A yes, sir.

Q Have you lived together ever since your marriage? A yes, sir.

Q And lived in the Cherokee Nation? A Yes, sir.

Q Have you lived in the Cherokee Nation ever since your marriage in 1880? A Yes, sir.

Q Is this wife's name, Warker, on the roll of 1880? A Yes, sir.

Q What district did she live in then? A Delaware.

Q In what district did you live in 1880? A Delaware.

Q 1896 what district? A Delaware.

Q Give me the names of your children? A Jennie May.

Q How old is she? A She is 11 years old.

Q Maud A., that the next one? A Yes, sir.

Q Ten years old? A Yes, sir.

Q Henry Clay, eight years old? A Yes, sir.

Q Rosy After, three years old? A Yes, sir.

Q Clara Bell, that is the next one, is it? A Yes, sir.

Q Born a year ago last August? A Yes, sir.

Q These children all living now? A Yes, sir.

William Warner-D-2.

1880 enrollment, page 291, #1823, Eliza Warker, Delaware.
1896 enrollment, page 594, #669, William Warner, Delaware.
1896 enrollment, page 625, #94, Eliza A. Warner, Delaware.
1896 enrollment, page 625, #95, Janie May Warner, Delaware.
1896 enrollment, page 625, #96, Maud A. Warner, Delaware.
1896 enrollment, page 625, #97, Henry C. Warner, Delaware.

Q Your present wife has lived in the Cherokee Nation all her life has she? A Yes, sir.
Q These children are all children of the present marriage, are they
A Yes, sir.

Com'r Breckinridge:--The applicant applies for the enrollment of himself, wife and five children: He shows by the marriage license and certificate filed herewith that he was married April 20, 1880, to Mary McNulty, said in the marriage license to be a Cherokee citizen. She is not identified on the roll of 1880. The applicatnt states that he lived with his wife three or four years and that they parted and he procured a divorce. He wil be listed now upon a doubtful card, under the status of a Cherokee by adoption. He is required to supply th Commission with a copy of the decree of divorce and if possible to have his wife identifieden the roll of 1880. His presents wife is identified on the roll of 1880 and 1896 as an adopted Delaware. She has lived in the Cherokee Nation all her life and she will be listed now for enrollment as an adopted Delaware.

The children applied for are all of the present marriage. The first three are identified with their parents on the roll of 1896, and they will be listed now for enrollment as Cherokee Delawares. The two younger children will be listed for enrollment as Cherokee Delawares when the Commission is supplied with proper certificates of their birth.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceddings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 29th day of September, 1900.

C R Breckinridge
Commissioner.

C 40449

COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED
MAR 4 1902

ACTING CHAIRMAN.

"R"

Cherokee D 449

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the applicatienof William Warner for enrollment as a Cherokee citizen.

Appearances:
J.S.Davenport, Vinita, I. T., attorney for the applicant, and applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11, 1902, that this case would be taken up for final consideration on the 27th day of February 1902; receipt has been acknowledged of the Commission's letter, and the applicant this day appears by his attorney, J.S. Davenport, of Vinita, I. T.

By agreement with the representatives of the Cherokee Nation this case is taken up for consideration this day.

WILLIAM WARNER, being first duly sworn, and being examined testified as follows:

BY MR. HASTINGS:

Q What is your name? A William Warner.
Q Where do you live? A Delaware District.
Q Vinita your post-office? A Yes sir.
Q Are you married now? A Yes sir.
Q What is your present wife's name? A Eliza Warner, she was a Markham when I married her.
Q She is a Cherokee? A No, she is a Delaware.
Q She is on the roll is she? A Yes sir.
Q You were married before, what was your first wife's name?
A Mary McNulty.
Q Were you ever married except th these two women? A No sir.
Q You got a divorce from your first wife yourself? A Yes sir I guess I did.
Q You brought the suit? A Yes sir.

BY MR. DAVENPORT:

Q You know what your first wife's mother's name was? A No I don't; she is dead; died when she was a little girl.

1880authenticated rell oe tisizens of the Cherokee Nation examined and applicant's wife identified on page 57 No.1588 Mary Warner, Canadian District, native Cherokee

Where living
Q Were you in 1880 when the rolls were taken? A Canadian.
Q Canadian District? A Yes sir.
Q You know who took the census? A Steve Hilderbrand.

BY MR. HASTINGS:

Q Why didn't they put you on that roll? A I don't know, because I was a white man I reckon.
Q Well they thought about right didn't they, you were a white man? A Yes sir.

BY COMMISSION: The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

"R"

D 490

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., March 1, 1902.

In the matter of the application of Alexander Walker, for the enrollment of himself, wife and children as citizens of the Cherokee Nation:

Appearances:
Mellette & Smith, Vinita, I. T., for applicants;
W. W. Hastings, for the Cherokee Nation.

The Commission: The applicant and his attorneys were notified by registered letter on February 14, 1902, that the application of Alexander Walker, for the enrollment of himself, wife and children as citizens of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 1st day of March, 1902.

Receipt has been acknowledged of the Commission's letters, and the applicant this day, to-wit: the 1st day of March, 1902, is present in person and by his attorneys Mellette & Smith.

Mr. Smith: I desire to offer four permits as evidence under the same ruling as in the previous case.

Mr. Hastings: Objected to by the Cherokee Nation for the reason that they are no proof whatever of citizenship.

The Commission: The four permits offered in evidence by the attorney for the applicant will be filed and made a part of the record.

--The attorney for the applicant and the representative of the Cherokee Nation present, submit this case, and the same is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant requests and will be granted fifteen days within which to file a brief in this case, one copy with the Commission, and one copy with the representatives of the Cherokee Nation.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this March 4, 1902.

M D Green
N.P.

Commissioner.

FILED
NOV 3 1902
ACTING CHAIRMAN

Cherokee D 449.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 14, 1902.

In the matter of the application of William Warner for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

WILLIAM WARNER, being sworn, testified as follows:

By the Commission,

Q What's your name, Mr. Warner? A William Warner.
Q What's your age? A Forty-five, or fifty-five I should have said.
Q What's your postoffice? A Vinita.
Q Are you the same William Warner that made application to this Commission for enrollment as an intermarried citizen in September, 1900? A Yes, sir.
Q What's your wife's name? A Eliza.
Q Is she a citizen by blood of the Cherokee Nation? A Yes, sir, she's a Delaware.
Q She's a citizen of Delaware blood, is she? A Yes, sir.
Q When were you married to your wife, Eliza? A I don't know the date.
Q About how long ago? A About fifteen years ago.
Q Were you married under Cherokee license? A Yes, sir.
Q Had you ever been married before you married your wife, Eliza?
A Yes, sir.
Q How many times? A Once.
Q What was your first wife's name? A Mary McNulty.
Q Were you married to her under Cherokee license? A Yes, sir.
Q Married to both women under Cherokee license? A Yes, sir.
Q You separated from your first wife? A She left me.
Q Where were you living when she left? A In the Cherokee Nation.
Q What was the reason she left? A I don't know, she just went off with another man.
Q That's a pretty good reason. You and she never lived together afterward? A No, sir.
Q Did you get a decree of divorce? A Delaware District.
Q Cherokee Court? A Yes, sir.
Q And after you were divorced you married your present wife, Eliza?
A Yes, sir.
Q Under Cherokee license? A Yes, sir.
Q Had Eliza ever been married before her marriage to you?
A No, sir.
Q You're her first husband and she's your second wife? A Yes, sir.
Q Were you living together as husband and wife on the first day of September, 1902? A Yes, sir.
Q Never been separated? A No, sir.
Q How long have you lived in the Cherokee Nation, Mr. Warner?
A Twenty-five years.
Q Have you lived in the Cherokee Nation all the time for the last twenty years? A Yes, sir.
Q Has your wife, Eliza, lived in the Cherokee Nation all the time since you and she were married? A Yes, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 1st day of November, 1902.

B C Jones
Notary Public.

Cherokee D 449.

aaD
82

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Warner as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N

The record in this case shows that on September 26, 1900, William Warner appeared before the Commission at Vinita, Indian Territory, and made application for his enrollment, among others, as a citizen by intermarriage of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 25, and October 14, 1902.

The evidence in this case shows that William Warner, a white man, was lawfully married under authority of a Cherokee Marriage license, on April 20, 1880, to Mary McNulty, a citizen by blood of the Cherokee Nation. William Warner secured a divorce from his said wife, Mary Warner, in 1886. He is identified on the Cherokee census roll of 1896.

Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495) provides for the enrollment of Cherokee citizens, "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 666 of the Compiled Laws of the Cherokee Nation (1892) is, as follows:

> "Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease."

The evidence in this case shows that the applicant secured rights of Cherokee citizenship through intermarriage with his first wife, Mary, and, that after a divorce from her was granted in his favor in 1886, he married his present wife, Eliza, a Delaware Indian, a member of the Cherokee Nation with the same rights and immunities as a native Cherokee under the terms of the Cherokee-Delaware agreement of 1867.

The evidence further shows that the said William Warner has resided in the Cherokee Nation ever since the year 1880.

It is, therefore, the opinion of this Commission that William Warner should be enrolled as a citizen by intermarriage of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats.,

Cherokee D 449

493), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby
Acting Chairman.

(SIGNED) T. B. Needles
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this DEC 10 1902

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.
J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F D 449

Muskogee, I. T., Feb. 13, 1902.

Mr. B. W. Alberty,
Tahlequah, I. T.

Dear Sir:

William War~~ro~~ner applies as a citizen by inter-marriage from Delaware District. He claims to have married Mary McNulty in April, 1890, and that some three or four years after that he was divorced from her, in Delaware District.

Please send me a copy of the decree of divorce, and oblige.

Yours very truly,

W. W. Hastings
Attorney for the Cherokee Nation.

I have examined the record from Sept- 1894 to last term in 1896 and fail to find Warner's case. The record immediately preceding this, was in possession of Col. J. M. Bell and Geo. Summers wrote me he had got it of him and left it with you when you were at Muskogee about a year ago.

B. W. Alberty

(974)

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-449.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of William Warner for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-227.

THE MATTER OF THE APPLICATION OF

William Warner

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 26-190
B. Memo. of application Sep 26-1900
C. Marriage license and certificate (copy)
D. Decree of divorce (copy)

Copy [illegible]

[illegible]

E. Notice of final consideration 2/3/02.
F. Supplemental testimony and order closing testimony, Feb 25, 1902.

See Delaware Jacket 35 –

[illegible]

Chapter [illegible] [illegible]

Cher D450

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DEPARTMENT OF
COMMISSION TO THE FIVE
FILED
SEP 28 1900

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 27, 1900.

In the matter of the application of Robert O. Owen for the enrollment of himself and children as Cherokees by blood, and his wife as a Cherokee by intermarriage; being sworn and examined by Commissioner Breckenridge, he testified as follows:

Q What is your full name? A Robert O. Owen.
Q How old are you? A 36.
Q What is your post office? A Vinita.
Q What is your district? A Cooweescoowee.
Q Who is it you want to have put on the roll, yourself? A Myself and wife and three children.
Q Do you apply for yourself as a Cherokee by blood? A By blood.
Q What proportion of Cherokee blood do you claim? A I don't know.
Q How long have you lived in the Cherokee Nation? A Since May 16, 1898.
Q Is your wife a Cherokee or a white woman? A White woman.
Q What is the name of your father? A William O. Owen.
Q Cherokee or white man? A White.
Q Is he dead or alive? A He is dead.
Q How long since he died, more than twenty years ago? A No, sir, in 1882.
Q Your mother's name? A Alice L.
Q Cherokee or white woman? A Cherokee woman.
Q She dead or alive? A She is alive.
Q In what district do you live, or did you live in 1880; are you on the roll of 1880? A No, sir, I was admitted January 31, 1881.
(The applicant presents a duly authenticated copy of an act of the Commission on Citizenship January 31, 1881, admitting sundry persons to citizenship in the Cherokee Nation, and among them appears the name of Robert Otway Owen. This is recognized as an official evidence of the admission of the applicant as stated.)
Q That is your name, is it? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since your admission in 1881? A No, sir.
Q Where were you living in 1881? A I have lived at Lynchburg, Va., until May 16, 1898.
Q That is before you came here? A I came here at that time, and have been an actual resident since.
Q Give me your wife's name? A Nina B. Owen.
Q How old is she? A She is 34 I think.
Q When were you married? A I was married June 8, 1893.
Q Have you a certificate of your marriage? A Yes, sir.
(The applicant presents a marriage license issued from Bedford County, Va., under date of June 7, 1893, authorizing his marriage to Rowena Pleasant Booth, and the certificate shows that they were married in accordance with said license on the day following, by the Rev. J. W. Jones and his assistant.)
Q Did your wife come here with you when you moved here in 1898?
A Yes, sir.
Q Has she lived here ever since? A Yes, sir.
Q And you and she have continued to live together? A Yes, sir.
Q Give me the name of your children? A William Otway, 6 years old.
Q Now the next child? A Booth, 5 years old.
Q The next child? A Owen, 3 years old.
Q These children came with you and your wife in 1898? A Yes, sir.
Q None of them upon any roll of the Cherokee Nation? A I think not; here is a certificate as to the birth of William Otway.
Q This indicates that you applied to the Dawes Commission for admission? A I applied through Colonel Owen, I didn't apply personally.
[illegible]

Annie E. C. Owen, Daisy H. Owen, and Nancy B. Owen admitted as intermarried citizens; William Owen, Dorothy Owen, William Otway Owen and Booth Owen admitted as citizens by blood; no appeal taken.)

Q These children are all living now are they? A Yes, sir.

Q Now your child Owen Owen was born since his mother was admitted by the Dawes Commission? A Born the 18th of October, 1897, here is a certificate of his birth.

Q The record of the Commission sent this to us does not state when the exact date of its action admitting your family was; do you remember just when it was? A I have no record except this. (Exhibiting paper.)

Q That is the Cherokee Commission. A Yes, sir.

Q Your two children are alive now are they? A Yes, sir.

The applicant applies for the enrollment of himself, his wife and three children. He is shown to have been admitted to Cherokee citizenship by the document cited in the testimony on January 31, 1881, but he did not move to the Cherokee Nation until May 18, 1898. This is within the limit prescribed in Section 21 of the Curtis Bill, but it appears to be within the inhibition provided in the Cherokee Act of December 4, 1894, cited page 128 of the Commission's report of 1899. Therefore, his application for his own enrollment is put upon a doubtful card for further consideration. The applicant's wife is shown to have been admitted by the Dawes Commission as set forth in the testimony, the date of admission not being specific in its character. She may also come within the inhibition provided by the Cherokee act just quoted, and the application for her enrollment will be placed upon a doubtful card for further consideration. The youngest child, Owen Owen, can possess only the rights of its mother, therefore the application for the enrollment of this child will be placed upon a doubtful card.

As for the two older children, William Otway and Booth Owen, they were admitted by the Dawes Commission as set forth in the testimony, and clearly do not come within the inhibition of the Cherokee act cited. These children are both living at this time, and will be listed now for enrollment as Cherokees by blood. The applicant is desired to furnish certificates of birth of the youngest child, Owen Owen.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 28th of September, 1900.

Commissioner.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and that the same is a true and complete copy of the original transcript.

Arthur G. Croninger

Subscribed and sworn to before me this 21st day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 2 1902
ACTING CHAIRMAN.

To be filed with D-450, Robert O. Owen et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., November 19, 1900.

In the matter of the application of Robert L. Owen for the enrollment of his aunt, Alice L. Owen, and her two children, as Cherokee citizens; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give your full name? A Robert L. Owen.
Q What is your age? A 44.
Q What is your postoffice? A Muskogee.
Q Your residence? A Cooweescoowee District.
Q For whom do you wish to make application now? A Alice L. Owen, my first cousin by blood and aunt by marriage.
Q Have you had charge of her interests in the Cherokee Nation?
A I have had charge of her farm and other matters for a good many years.
Q Do you wish to apply for her alone? A For her and two daughters, one of the daughters is of age, and I suppose a separate application should be made for her.
Q She is unmarried? A Yes, sir, they live together.
Q You wish to apply then only for Alice L. Owen and two children?
A Yes, sir.
Q How old is Alice L. Owen? A Alice L. Owen is 56 years old.
Q Does she claim citizenship in the Cherokee Nation? A She claims citizenship in the Cherokee Nation.
Q In what district does she claim citizenship? A In Sequoyah.
Q What is her present postoffice address? A Lynchburg, Virginia.
Q Is she on any of the rolls of the Cherokee Nation? A She is on the roll of 1894 and perhaps others, I am not sure.
Q Is she on the roll of 1880? A I think not.
She was readmitted in 1881.
Q Have you a certificate of her admission? A I have, but have not it with me; it was submitted in the case of Robert Otway Owen.
Q And he left it on file? A I don't know.
Q Does Alice L. Owen claim to be a Cherokee by blood? A She is a Cherokee by blood.
Q What is thename of her father? A Her father was named Lynde.
Q Do you remember his given name? A I cannot recall it at this moment.
Q You remember her mother's given name? A Yes, her mother's given name was Jane Chism—maiden name, and she married Lynde, and afterwards married Bruton.
Q Now where has Mrs. Owen lived since she was admitted in 1881?
A She has lived in Lynchburg, Virginia.
Q Ever since 1881? A Except on occasional visits out here.
Q What is the name of her husband? A William Otway Owen; he died in 1892; a white man.
Q When did she marry him? A Married him in 1864, 63 or 4.
Q And he died in 1892? A He died in 1892.
Q Did they live together as husband and wife from the time of their marriage until his death? A Yes, sir.
Q Give me the names of the two children please? A Jane Owen.
Q How old is that child? A I believe that she is about 35 years old; she has ceased to be a child.
Q She has never been married? A She is not married.
Q Is she on any roll of the Cherokee Nation? A She is on the roll of 1894 and I think on the roll of 1896.
Q Give me the name of the next child? A Alice Owen.
Q How old is she? A I think she is about 21.
Q They are both living now are they? A Yes, sir.
Q Have they both made their home continuously with their mother in Virginia? A Yes, sir, Jane Owen lived in the Cherokee Nation

a year or two at Tahlequah, and taught school, I think in 1884.
Alice Owen inherited her mother's farm in Sequoyah District and for that reason claims Sequoyah as her district.
Q She still holds that farm? A Yes, sir.
1880 roll examined for Alice L. and Jane Owen and not found.
1896 roll examined for Alice L. and Jane Owen and not found.
1894 roll page 266 #3223 Alice Owen Cooweescoowee Dist.
Q Was Alice in Cooweescoowee? A She had this place I was telling you of; I thought she claimed in Sequoyah.
Q She had a Cooweescoowee place also did she? A Yes, sir.
1894 roll page 266 #3224 Alice Owen Jr. Cooweescoowee,
1894 roll page 266 #3225 Janey Owen Cooweescoowee.
Q Does Mrs. Owen propose to come back to the Cherokee Nation and make her home? A I couldn't answer that question.
Q Is there any purpose entertained by either of her daughters to return to the Cherokee Nation and make it their home?
A I couldn't answer that question.

Examined by Cherokee Rep've J. L. Baugh:

Q Alice Owen never returned after that admission? A She has been here on a visit; never lived here; she has a farm in Sequoyah and a farm in Cooweescoowee.

Com'r Breckinridge: The applicant applies for the enrollment of Alice L. Owen and her two children; he states that Alice L. Owen was readmitted to citizenship in 1881, since which time she has substantially made her home in Lynchburg, Virginia; she is identified on the roll of 1894, and she has continued to hold farming property in the Cherokee Nation; it is desired that the Commission be furnished with official evidence of her admission to citizenship in 1881; to await this evidence, and for the further consideration of her status arising from her period of non-residence in the Cherokee Nation, under the conditions stated in the testimony, she will now be listed for enrollment as a Cherokee by blood on a doubtful card; the applicant is permitted to make application for this lady because of the great expense and difficulty of her making application for herself, and it has been his custom to attend to all of her affairs in the Cherokee Nation; for the same reason he is permitted to make application for her two children named in the testimony, who are identified on the roll of 1894; they have lived with their mother, except that the younger one was born in the Cherokee Nation and the older one, beginning in 1884, lived for two years in the Cherokee Nation and taught school; they will be listed for enrollment as Cherokees by blood on a doubtful card for further consideration of their status.

Final decision of the Commission will be made known to the applicant at his postoffice address.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this 20th day of November, 1900.

(Signed) C. R. Breckinridge,

Commissioner.

Arthur G. [illegible], being duly sworn, states that as stenographer to the [illegible] he [illegible] the following case, and that the same is a true and complete copy of the original transcript.

Arthur G. [illegible]

Subscribed and sworn to before me this 21st day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 27 1902
ACTING CHAIRMAN.

To be filed with D-450, Robert O, Owen et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 19, 1902.

In the matter of the application of Alice L. Owen for the enrollment of herself and children as citizens of the Cherokee Nation, D-826.

Applicant represented by Robert L. Owen, Muskogee, I.T.
Cherokee Nation represented by W. W. Hastings.

SUPPLEMENTAL TESTIMONY.

WILSON O. BRUTON, being duly sworn, testified before the Commission as follows:

Q What is your name? A Wilson O. Bruton.
Q Where do you live? A Near Muldrow, in the Cherokee Nation.
Q Do you desire to make a statement relative to the enrollment of Alice L. Owen and her two children? A Yes, sir.
Q Proceed please. A Alice L. Owen is a half-sister of mine. I have had charge of her property since her readmission to Cherokee citizenship by the National Council of the Cherokee Nation. For several years her property consisted solely of personal property. In the year 1890 or 1889 my mother died; in 1890 my father died. The estate was divided and the old homestead place became hers. Her mother and my mother is buried on the homestead I suggested. I have had charge of that property for her ever since. I pay her every year the rents off of it. She is in Lynchburg, Virginia, but claims this homestead as her home as I understand it. She has been here several times since her readmission or at least more than once, I can't say how many times. I am not familiar with the dates of the birth of the children. I know their names, but I am not familiar with the dates of their birth.
MR. OWEN: What are the names of her daughters living with her? A Janie Owen and Alice Owen.
Q Do you know Charles Owen? A I do.
Q Do you know where he is living? A He is living at Caney in the Cherokee Nation, near Caney, in the Cherokee Nation.
Q Do you know how long he has been living there? A No, sir, I think perhaps about a year.
MR. HASTINGS: Your sister is married of course? A She was married; she is a widow now.
Q You say at present residing at Lynchburg, Virginia? A Yes, sir.
Q Was this homestead ever divided or do you own it jointly yet? A It was divided.
Q And her share set apart? A Yes, sir. There was two or three farms, and we divided the personal property, and everything was divided. I have no interest in the homestead, nor has my other sister, there is only three of us in all.
COMMISSION: It is directed that copies of all the testimony had in the matter of the application of Alice L. Owen to be enrolled as a citizen of the Cherokee Nation be filed and made a part of the record in the case of Charles Owen and Owen Owen, whose names appear upon Cherokee Doubtful Card 651.

Arthur G. Croninger, being duly sworn, states that as stenograther [illegible] to [illegible] rather be reported in [illegible] is a true and [illegible] of his [illegible] taken [illegible].

Subscribed and sworn to before me this 20th day of February, 1908.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 27 1902
ACTING CHAIRMAN.

D.430.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 10, 1[illegible].

In the matter of the application for the enrollment of Robert O. Owen for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

It is directed that copies of all the testimony had in the matter of the application of Alice L. Owen, whose name appears upon doubtful card No. 850, be filed and made a part of the record in this case.

Commissioner.

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Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Robert O. Owen, for the enrollment of himself, wife and child as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself, wife and child as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902, and that he could on said date appear before the Commission either in person or by attorney, and an opportunity would be given him to introduce any further testimony affecting his application.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, and it is ordered that this case be closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

DEPARTMENT [illegible]
COMMISSION TO [illegible] LIZED TRIBES,
FILED
DEC 11 1902
ACTING CHAIRMAN.

Cher
Supp'l to D 450

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 24, 1902.

In the matter of the application of ROBERT O. OWEN, for the enrollment of himself and his son, OWEN OWEN, as citizens by blood, and his wife NINA B. OWEN, as a citizen by intermarriage, of the Cherokee Nation:

ROBERT L. OWEN, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Robert L. Owen.
Q Your age ? A Forty eight.
Q Post office ? A Muskogee, Indian Territory. I know Robert O. Owen.
Q What relation is he to you ? A He's a first cousin.
Q How old is Robert O. Owen ? A Thirty eight.
Q Where is he living at the present time ?
A I think he is in Southern California at this moment.
Q Robert O. Owen is an admitted citizen is he not ?
A I don't know whether he is an admitted citizen or not, he was living at Vinita at the time of his enrollment.
Q Wasn't Robert O. Owen admitted by the tribal authorities ?
A Yes sir, he was.
Q Do you know when that was ? A I think it was along about the year 1881.
Q Do you know when he came to the Cherokee Nation ? A No.
Q After his admission ? A Not exactly the date, but it was about four or five years ago--no I can't recollect the exact time. I think that the evidence submitted in his case shows that, I don't remember exactly; I only know that he and his wife are first husband and first wife, and never re-married.
Q That is what you want to testify about ? A Yes sir.
Q What is his wife's name ? A Nina B.
Q She is a white woman ? A Yes sir a white woman.
Q When was she married to Robert O. Owen ?
A About ten years ago.
Q She is Robert O. Owen's first wife ? A Yes sir.
Q And he is her first husband ? A Yes sir.
Q Never been re-married since ? A No sir.
Q Have they lived in the Cherokee Nation since their marriage ?
A Yes sir, up to the time he went away.
Q When did he go to California ? A He went there about three or four months ago.

Examined by J. C. Starr:

Q Q Has he lived here continuously since 1896 ?
A He has gone to California, as I stated.
Q I mean up to that time ? A He lived in Vinita until a year ago, and then he left there and went to Kansas City, and about three or four months ago went to California, and is in California now according to my information.
Q Is Charlie Owen living, do you know ?
A Yes sir.

[illegible] on [illegible] that [illegible] stenographer [illegible] Com[illegible] the t[illegible] and proceedings [illegible] that the [illegible]going is an accurate transcript of his [illegible] thereof.

[illegible]

Subscribed and sworn to before me this December 10, 1902.

B. C. Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
DEC 11 1902
ACTING CHAIRMAN.

Cherokee D-480.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., December 10, 1902.

In the matter of the application of Robert O. Owen for the enrollment of himself and child, Owen Owen, as citizens by blood, and for the enrollment of his wife, Mina B. Owen, as a citizen by intermarriage of the Cherokee Nation.

Mina B. Owen, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Mina B. Owen.
Q What is your age at this time? A Thirty-four.
Q What is your postoffice? A Fort Smith, Arkansas.
Q You are an applicant for enrollment as an intermarried citizen of the Cherokee Nation, are you? A Yes sir.
Q What is your husband's name? A Robert O. Owen.
Q Is he a recognized citizen by blood of the Cherokee Nation? A Yes sir.
Q When were you and Mr. Owen married, what year? A June 8, 1892.
Q You made application for admission under the act of June 10, 1896, as an intermarried citizen did you not? A Yes sir.
Q And was admitted by the United States Court for the Northern District, Indian Territory, under that act of '96, I don't remember the date of the judgment? A Yes sir.
Q Now, where were you living at the time you were admitted by the Court under the act of '96? A I was living in Lynchburg, Virginia, in '96.
Q When did you come to the Indian Territory to live? A May 16, 1898.
Q Where have you resided since May 16, 1898? A I was in Vinita; I was there two years; I don't remember the date I left Vinita, it was September, 1900.
Q Where have you been living since you left Vinita? A I was in Kansas City, Missouri, for a while, and then I have been on visits to my people in the East.
Q Have you lived out of the territory at all since 1900, made your home anywhere else besides the territory since 1900? A I was in Kansas City for medical treatment and my home for the time was there.
Q Visits and matters of business and things of that kind don't count. Have you actually made your home anywhere else besides the Indian Territory since you left Vinita in 1900? A My temporary home I say I was in Kansas City.
Q You have just been moving around? A I was only in Kansas City temporarily.
Q From May 16, 1898, up until some time in the fall of 1900 your home was in Vinita, Indian Territory? A Yes sir.
Q And since that time you have been in Kansas City for medical treatment? A Yes sir.
Q And been on a visit east to your folks you say? A Yes sir.
Q You were admitted in 1896 by reason of your marriage to Robert O. Owen? A Yes sir.
Q Now since 1896 when you were admitted have you and your husband, Robert O. Owen, lived together as man and wife all the time up until the present time? A Until within a year.
Q Have you separated a year ago? A I am not with my husband at present.
Q Were you with him? A We were separated - no legal separation.
Q I mean a falling out and an actual separation between you? A He expects to come back and live with his family.
Q Do you expect to live with him when he returns, as his wife? A Yes sir.

Q You have had no falling out or no actual separation? A I should say a temporary separation, yes, because the family was certainly broken up for a while, but there has been no legal separation.

Q What was the cause of your separation, you say you haven't lived together for about a year? A Yes sir.

Q When you separated about a year ago was there any falling out or hard feeling between you and Mr. Owen that would tend to break the family ties at that time? A My husband wasn't financially able to take care of his family and I went home to my people, and he went away to make a living some where else.

Q Did you and he actually separate; did you expect at the time of your separation that you and he would return together and live as husband and wife at the very time you separated? A I did.

Q You didn't understand at the time you separated that the family ties were broken up for all times? A I did not.

Q You expect him to return and live together again in the same relations that you had borne to each other before that time? A That was what I expected of him.

Q Where were you living at the time this separation took place? A Kansas City, Missouri.

Q Did you leave Kansas City and leave him there? A He was not in the City when I left, but it was understood that I was to go to Florida on a visit to my brother.

Q You remember what month it was that you left Kansas City? A The 24th of November.

Q Twenty-fourth of November last year? A Yes sir.

Q And you and he have never lived together since November 24, 1901, have you? A That was the last time.

Q Where is your husband at this time? A He is in California.

Q When will he return from California, do you know? A I do not know.

Q Do you know when he expects to return? A I don't know just when he expects to return, but he expects to return as soon as he can.

Q When did you hear from him last? A Two or three days ago.

Q Have you and he corresponded regularly since you left Kansas City? A Yes sir.

Q You were still his lawful wife on the first day of September, 1900, were you? A Yes sir.

Q Has this child Owen Owen been with you all the time? A Yes sir, right with me.

Q Was it born in the territory? A It was born in Virginia.

Q What has been said of your residence is true of this child's residence; it has been with you all the time? A Yes sir, it has been with me all the time.

Q When did your husband, Robert O. Owen, leave the territory? A In November or October, 1900.

Q Has he been in the territory since then? A He has not had his home in the territory since.

Q When you came here in 1896 where was your husband? A I came in '98.

Q I mean '96? A He came with me.

Q And he resided here in the territory here with you up until 1900? A Yes sir, I left the territory before he did. He was a physician and came to Kansas City where I was there for medical treatment.

Q Robert O. Owen was your first husband? A Yes sir.

Q You his first wife? A Yes sir.

J.O.Starr: To what point in the Cherokee Nation did you come when you came in '96? A Ogeechee.

Q How long did you live there? A I was there just a few months.

Q About how many months? A Two or three.
Q Where did you go to from there? A Moved to Vinita.
Q How long did you stay at Vinita? A Stayed in Vinita until 1900.
Q Where have you lived since you left Vinita? A I was in Kansas City and since then I have been in the West with my people. I haven't made my home anywhere since I left the territory.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E.G. Rothenberger

Subscribed and sworn to before me this 10th day of December, 1902.

B.C. Jones
Notary Public.

m24

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-450.

Muskogee, Indian Territory, October 23, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 22, 1903, granting the application for the enrollment of Robert O. and Owen Owen, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicants. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. D-9

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,
Muskogee I. T. October 31, 1903.

In the matter of the application for the enrollment of Robert O. Owen and Owen Owen, as citizens by blood of the Cherokee Nation.

Protest of the Cherokee Nation.

The record in this case shows that Robert O. Owen was thirty-six years of age on the date he applied for enrollment as a citizen of the Cherokee Nation; that he was admitted to citizenship in the Cherokee Nation with his mother, by the duly constituted authorities of the Cherokee Nation, on January 31, 1881, and at the time of said admission he was a minor.

He is identified on the 1894 Pay roll clearly without authority of law for the reason that there was no law authorizing his enrollment at that time as he had not at that time removed to and in good faith settled in the Cherokee Nation.

The Commission in its decision finds that Robert O. Owen removed to and ~~in good faith~~ locatated in the Cherokee Nation on May 16, 1898. If this statement is true then the applicant is not entitled to be enrolled as a citizen of the Cherokee Nation because of his failure to comply with the provisions of the act of the Cherokee National Council of date December 4th 1894 requiring all persons who had been readmitted to citizenship in the Cherokee Nation to remove to and permanently locate within the limits of the Cherokee Nation within six months from the passage of that act or within six months after the date of readmission of persons thereafter readmitted. This applicant has wholly failed to comply with the provisions of this act as he does not claim to have removed to or located within the Cherokee Nation prior to May, 16, 1898.

We do not believe that the testimony shows that this applicant ever removed to and in good faith settled in the Cherokee Nation on May 16 1898 or at any other time. No good faith has been shown in his removing to and locating in the Cherokee Nation.

The act of December 4th 1894 became a law after the applicant was readmitted and he became subject to that law; he was bound by it; that act gave him fair notice and warning that he must removed to and permanently locate within the limits of the Cherokee Nation within six months after December 4th 1894 or he would acquire no citizenship therein. The applicant was thirty-six years old in 1900 when he made his application herein hence he was not a minor or December 4th 1894.

Following the decisions of the Department in the cases of:

Berley B. Geuy et al, Cherokee D __________

Allie Williams, Regular Cherokee Card No ______________

Ora M. Bonds (Nee Camp) et al Cherokee D No ___________

Lovie P. Garrison et al Cherokee D _________________

we do not see how under the law an exception could be made in favor of the applicant Robert O. Owen; we believe he is not entitled to be enrolled as a citizen of the Cherokee Nation and for these reasons briefly stated w most earnestly protest against the Decision of the Commission rendered herein on October 22nd 1903 and ask that the record be forwarded to the Honorable Secretary of the Interior for review. We earnestly contend that the Commissions decision should be reversed.

Respectfully,

WWHastings JCS

Attorney for the Cherokee Nation.

Owen R.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee D-450

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 22, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated October 22, 1903, granting the application for the enrollment of Robert O. Owen and his minor child, Owen Owen, as citizens by blood of the Cherokee Nation, was reversed by the Secretary of the Interior on October 3, 1904.

Respectfully,

Chairman.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
R 941

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 4, 1906

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

There is enclosed herewith a copy of Departmental letter of september 21, 1906, remanding to this office for readjudication, in accordance with the provisions of the Act of Congress approved June 21, 1906 (Public No. 258), providing for the addition of the names of Alice Owen and her children to the roll of citizens by blood of the Cherokee Nation, the record in the matter of the application for enrollment as citizens of the Cherokee Nation, of Robert O. Owen, et al.

In view of your protest of July 24, 1906, the record of proceedings had in the case, together with a copy of your protest, has this day been returned to the Department, with the recommendation that it adhere to its decision of October 3, 1904, rejecting the application of Robert O. Owen for the enrollment of himself and minor child, Owen Owen, as citizens by blood of the Cherokee Nation.

Respectfully,

Encl. R-86

Commissioner

D.C.42645 G.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.6368-1904.
1110-1905.
LRS

September 21, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

In view of the provision of the act of Congress approved June 21, 1906 (34 Stat., 340), authorizing you to add the names of "Alice Owen and her children, to the final roll of the citizens by blood of the Cherokee tribe, Provided That the enrollment of said persons by the Commissioner to the Five Civilized Tribes shall not be objected to by the said tribe, and shall be approved by the Secretary of the Interior," there is remanded to you for readjudication in accordance therewith, the record in the matter of the application of Robert O. Owen for the enrollment of himself and his minor child, Owen Owen, as citizens by blood of the Cherokee Nation. There is also included in the record an application for the enrollment of Nina R. Owen, wife of Robert O. Owen, for enrollment as an intermarried citizen of the Cherokee Nation. Certain affidavits filed with the Department, pending action on the decision of the Commission to the Five Civilized Tribes in said case, are forwarded to be considered with the record.

Your attention is invited to departmental letter of August 31, 1906 (I.T.D.9102), remanding for readjudication under the above act the papers in the case of Charles Owen for himself and his brother, Owen Owen.

Respectfully,

(Signed) Jesse E. Wilson

Assistant Secretary.

2 inclosures.

Through the Commissioner
of Indian Affairs.

Cherokee D 450

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Robert O. Owen and minor child, Owen Owen, as citizens by blood of the Cherokee Nation:

D E C I S I O N

The record in this case shows that on September 27, 1900, Robert O. Owen appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of himself and minor child, Owen Owen, as citizens by blood of the Cherokee Nation. The application also included Nina B. Owen, wife of the said Robert O. Owen, who claims right to enrollment as a citizen by intermarriage of the Cherokee Nation, but the status of such persons not being fixed at this time, the said Nina B. Owen is not embraced in this decision. The other parties to said application are differently classified and are not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 19 and 27, October 24 and December 10, 1902.

The evidence shows that the said Robert O. Owen was thirty-six years of age at the date of the application herein; that he was admitted to citizenship in the Cherokee Nation with his mother, by the duly constituted authorities of said nation, on January 31, 1881, and that at the time of said admission he was a minor. The said Robert O. Owen is identified on the 1894 Strip payment roll of the Cherokee Nation as a native Cherokee.

The evidence further shows that the applicant, Owen Owen, is the minor child of the said Robert O. Owen, who removed to and located in the Cherokee Nation on May 16, 1898. The residence of said minor applicant, Owen Owen, is the same as that of his father.

Cherokee D 450

It is, therefore, the opinion of this Commission that Robert O. Owen and Owen Owen should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this OCT 22 1903

450

IN THE MATTER OF THE APPLICATION OF

Nina B.
~~Robert~~ E. Owen et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

[illegible] by W.T.S.

A. Original testimony Sep 27-1900
B. Memo. of application Sep 27-1900
C. Affidavit of birth: Owen Owen
D. Notice of final consideration 2/3[illegible]

Nos 43
E. Test. from case of Alice L. Owen et al 2/19/02
F. Supp. test. from case of Alice L. Owen et al 2/19/02
G. Order for filing above test. in this case
[illegible]

Cancelled Ex Facto

H. Cherokee [illegible] 35-84

OCT 1

I. Order closing testimony 2/21/02
K. Unclaimed [illegible] letter

Chen D 451

Chen D 451

DH 51

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 20 1900
ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 27, 1900.

In the matter of the application of John E. Nasworthy for the enrollment of himself as a Cherokee by intermarriage and his wife and two stepchildren as Cherokees by blood; being sworn and examined by Commissioner Breckenridge, he testified as follows:

Q What is your full name, please? A John E. Nasworthy.
Q How old are you? A 28.
Q What is your post office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll, yourself? A Yes, sir.
Q That all? A My wife and two stepchildren.
Q Do you apply for yourself as a Cherokee by blood? A No, sir.
Q White man? A Yes, sir.
Q Your wife a Cherokee? A Yes, sir.
Q What proportion of Cherokee blood do you claim for her? A I can't tell you exactly.
Q Have you a marriage license and certificate? A Yes, sir.
(Applicant presents a duly authenticated Cherokee license issued by the Clerk of Delaware district July 18, 1894, authorising his marriage to Miss Annie Harlin, the latter a citizen of the Cherokee Nation. The certificate shows that he and his wife were united in marriage on the same date by the Clerk of the district. This is filed with the application.)
Q Have you lived with your wife ever since you married her in 1894?
A Yes, sir.
Q And you are living with her at this time? A Yes, sir.
Q In the Cherokee Nation all the time? A Yes, sir.
Q How old is your wife? 27.
Q Is she a native Cherokee? A Yes, sir.
Q How long has she lived in the Cherokee Nation? A All her life?
A I don't know whether she has been here all her life or not.
Q You think she was born here, do you? A Yes, sir.
Q What is her father's name? A Murin Harlin.
Q Cherkee or white man? A Cherokee.
Q Is he dead or alive? A He is dead.
Q How long has he, been dead? A I can't tell exactly, about ten years I think.
Q Give me her mother's given name? A Belle Harlin.
Q Cherokee or white woman? A White woman.
Q Is she dead or alive? A She is alive.
Q Is your wife's name correctly given in that certificate of marriage? A No, sir.
Q What is her full name? A Hannah Aminta Nasworthy.
Q You don't know what district your wife lived in in 1 80? A No, sir.
Q Was she married before she married you? A Yes, sir.
Q What was her first husband's name? A Jack Spurlock.
Q When did she marry him? A I can't tell you.
Q You have no certificate of marriage between your wife and Jack Spurlock? A Yes, sir, at home.
Q Is Jack Spurlock dead? A No, sir.
Q He is living, is he? A Yes, sir.
Q White man or Cherokee? A White man.
Q How long did they live together as husband and wife? A Six years I think.
Q Did she get a divorce from him? A Yes, sir.
Q Have you a copy of the decree of divorce? A No, sir, I haven't.
Q You know where it was procured? A Yes, sir, the man is here that got it.
Q Give me now the names of the two children? A Hardin Henry Spurlock.

Q How old is that child? A About ten years old.
Q What is the name of the next child? A Louis Pleasant Spurlock, 8 years old.
Q Have you someone here who knew your wife before she married Spurlock and also after she married Spurlock? A Mr. Daniels there knew her..

M. Daniels, being sworn and examined by Commissioner Breckenridge, testified as follows:
Q Give your name? A M. Daniels, age 55, Vinita post office.
Q Do you know Mr. Nasworthy here, the applicant? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What was her father's name? A Marin Harlin.
Q As a girl she was known as Hannah Harlin, was she? A Yes, sir.
Q Perhaps Hannah A.? A I don't know about the initial A; Hannah Harlin was the name I knew.
Q She was married once before, wasn't she? A Yes, sir.
Q What was her husband's name? A Spurlock, Jack, I believe was his given name.
Q That is the same woman that you understand is his wife now? A Yes sir.
Q And is known by the community as his wife? A Yes, sir.
Q What district was she in in 1880? A She has been admitted since 1880.

John E. Nasworthy, recalled, testified:
Q You say your wife has been admitted since 1880? A Yes, sir.
Q In what year? A I think it was in the same year that the roll was taken.
Q You haven't got a copy of the certificate with you? A No, sir, not with me.
(Hannah A. Nasworthy on 1896 roll, page 223, No. 3524, Hannah Nasworthy, Cooweescoowee district. John E. Nasworthy on on 1896 roll, page 317, No. 754, John E. Nasworthy, Cooweescoowee district. Hardin H. Spurlock on 1896 roll, page 257, No. 4461, Cooweescoowee district. Louis P. Spurlock on 1896 roll, page 257, No. 4462, Cooweescoowee district.)
Q These children are both living now are they? A Yes, sir.
Q Do you know how long your wife has lived in the Cherokee Nation?
A No, sir, I don't.
Q You don't know whether she has lived here since her admission in 1880, do you, all the time? A I think she has lived here ever since that.
Q You think so, but you don't know nything about it? A I have known her about 15 years, somewhere near that.
Q Has she been living her ever since you first knew her, 15 years ago? A Yes, sir.

The applicant applies for the enrollment of himself, his wife and two stepchildren. He states that his wife was admitted by the Cherokee Commission in 1880, but he does not produce official evidence of that fact. His wife is identified on he roll of 1896, and to his personal knowledge has lived in the Cherokee Nation for the last fifteen years. The applicant is required to produce official evidence of his admission in 1880, and until that is produced, she is placed upon a doubtful card.

As regards the applicant himself, he is shown to have married his wife in accordance with Cherokee lawJuly 19, 1894, they have lived together as husband and wife, and in the Cherokee Nation ever since, he is identified with her upon the roll of 1896. His own enrollment will depend in part upon evidence of his wife's admission in 1880, and he is also required to present a copy of the decree of divorce between his wife and her former husband, as set forth in the testimony. His

John H. Nasworthy - 8.

Application for enrollment as a Cherokee citizen by intermarriage is at present placed upon a doubtful card.

The two children, said to be children of his wife by her former husband, are identified with her on the roll of 1896, they are both living at this time, but their claim can be no greater than their mother's, and their application will be placed upon a doubtful card to await evidence of their mother's admission in 1880.

* * *

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C Jones

Sworn to and subscribed before me this the 29th of September, 1900.

Commissioner.

COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 28 1902

ACTING CHAIRMAN

CHEROKEE D 451

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 1,1902.

In the matter of the application of John E. Nasworthy, et.al. for enrollment as Cherokee citizens.

Supplemental Statement.

---oOo---

There was filed with this Commission on the fifth day of October 1900, a copy of the record of the Citizenship Commission of the Cherokee Nation in the case of Marian Y. Harlin against the Cherokee Nation, certified by S. H. Mays, Principal Chief, to be a correct transcript of such record, from which it appears that Marian Y. Harlin was admitted to all the rights and privileges of Cherokee citizenship by blood on the 14th day of September, 1880.

There was also filed with this Commission on the fifth day of October, 1900, a duly certified copy, under the seal of the Cherokee Nation, and signed by B.W. Alberty, Assistant Executive Secretary of the Cherokee Nation, of the record of the Circuit Court of Cooweescoowee District, Cherokee Nation in the case of Hannah Spurlock vs. A. J. Spurlock, from which it appears that a divorce was granted between said parties on the 15th day of July, 1894.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

Cher[illegible]

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John E. Nasworthy for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife Hannah A. Nasworthy and two step-children, Hardin H. Spurlock and Louis P. Spurlock as citizens by blood of the Cherokee Nation.

DECISION.

---o0o---

The record in this case shows that on September 27, 1900, John E. Nasworthy appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife Hannah A. Nasworthy and his two step-children Hardin H. Spurlock and Louis P. Spurlock as citizens by blood of the Cherokee Nation. On October 3, 1900, the applicant filed with this Commission documentary evidence in the matter of the above application.

The evidence in this case shows that John E. Nasworthy, the principal applicant, was lawfully married on July 19, 1894, in accordance with the tribal laws of the Cherokee Nation to Anne Harlin who is identified as his wife Hannah A. Nasworthy, for whom he makes application. It further appears that the said Hannah A. Nasworthy is the daughter of one Miriam Harlin, and that the said Miriam Harlin was admitted to citizenship in the Cherokee Nation on September 14, 1880, Anne Harlin, now Hannah A. Nasworthy was then seven years old. She has resided in the Cherokee Nation all her life and she is identified on the Cherokee Census roll of 1896. She had been formerly married to one A. J. Spurlock from whom she was divorced. Hardin H. and Louis P. Spurlock are her children by such former husband. They are identified on the Cherokee Census roll of 1896. John E. Nasworthy is also identified on that roll.

The authority of the Commission herein is defined in Paragraph 1, Section 21, of the Act of Congress, June 28, 1898 (30 Stats.,495).

It is therefore the opinion of this Commission that John R. Danworthy is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that Hannah A. Danworthy and her two children Hardin H. and Louis P. Spurlock are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Dated at Muskogee, Indian Territory,

this MAY 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

D - 451.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith, please find a copy of the decision of the Commission rendered May 20, 1902, in the matter of the application of John E. Nasworthy et al. for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire against the enrollment of the above named persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Enc. D - 451.

MATTER OF THE APPLICATION OF

Wm. E. Nagualtey

FOR ENROLLMENT AS

HEROKEE CITIZENS.

A. Original testimony Sept. 27, 1900
B. Memo. of application " "
C. Certified Copy, Record of Admission
D. Marriage license & certificate
E. Certified Copy, Record of divorce

Copy of testimony files
with Cherokee Nation
Citizenship

Cancelled September 13, 1902,
and transferred to Cherokee
No. 9587

Enrolled

Cher U 452

Cher U 452

H52

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900
Acting Chairman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 27, 1900.

In the matter of the application of Charles M. Howell for the enrollment of himself and three children as Cherokees by blood and his wife as a Cherokee by intermarriage; being sworn and examined by Commissioner Breckenridge, he testified as follows:

Q Give your full name? A Charles M. Howell.
Q How old are you? A 45 years old.
Q What is your post office? A Bluejacket.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll, yourself? A Myself and family.
Q That includes a wife? A Yes, sir.
Q How many children? A Three single.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A 1/8.
Q Is your wife a Cherokee? A No, sir.
Q Is she a white woman? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I was admitted in December 1893 and have been here ever since.
Q Have you a copy of your certificate of admission? A Yes, sir.
(The applicant presents an official copy of an act of the council approved December 5, 1893, Bill No. 18, readmitting certain persons to Cherokee citizenship on condition that they moved within the Cherokee Nation within six months after the approval of the act, and among them appears the name of Charles M. Howell.)
Q That is your name, is it? A Yes, sir.
(This is recognized as official evidence of the facts stated.)
Q Did you come to the Cherokee Nation within six months after the approval of this act? A Yes, sir.
Q Were you in the Cherokee Nation at the time the act was approved?
A I moved my family in May 12.
Q Of what year? A Of 1894.
Q Have you lived in the Cherokee Nation ever since you came here in May, 1894? A Yes, sir.
Q Give me your wife's name? A Amanda E.
Q How old is she? A 38.
Q When did you marry her? A It was in 1877 I think.
Q Have you and your wife lived together ever since you were married in 1877? A Yes, sir.
Q Did she come with you in May, 1894, when you came here? A Yes, sir.
Q She has not been admitted by the Cherokee Council as you have?
A No, sir.
Q Were you ever married to her after you came here, under Cherokee law? A No, sir, I was not.
(The applicant presents a marriage license from Chautauqua County, Kansas, issued by the Probate Judge, authorizing his marriage to Amanda E. Walker, the said license being dated February 6, 1877, and the certificate shows that they were married by Aaron Lamb, Justice of the Peace, on February 7 of the same year. This is filed herewith.)
Q Give me the names of your children, please, of these three?
A Gracie P., 18 years old.
Q The next child? A Carl J., 16 years old.
Q The next child? A Flossie E., 8 years old.
Q Were all of these children living when you were admitted by the council? A They were all living.
Q Were they admitted with you? A Yes, sir.
(The certificate just cited contains the names of Gracie P., Carl J., and Flossie E. Howell.)
Q These are the names of the children for whom you apply now, are they? A Yes, sir.

I

Charles N. Howell - 2.

Q These children all living now, are they? A Yes, sir.
(Charles N. Howell on 1896 roll, page 178, No. [illegible], Cooweescoowee district. Lawrence E. Howell on 1896 roll, page 508, No. 575, Cooweescoowee district. Gracie P. Howell on 1896 roll, page 178, No. [illegible], Cooweescoowee district. Carl J. Howell on 1896 roll, page 178, No. 2228, Carlie J. Howell, Cooweescoowee district. Flossie P. Howell on 1896 roll, page 178, No. [illegible], Cooweescoowee district.)
Q Your wife's maiden name was Amanda E. Walker, was it? A Yes, sir.
Q These three children came with you in 1893 when you came here?
A In 1894, yes, sir.

The applicant applies for the enrollment of himself, his wife and three children. He is shown to have been admitted to Cherokee citizenship in December, 1893, on condition that he moved to the Cherokee Nation within six months after the admission, and he came to the Cherokee Nation within the prescribed limits. He has lived here ever since, and he is identified on the roll of 1896, and he will be listed now for enrollment as a Cherokee by blood. His three children, enumerated in the testimony, were admitted at the same time, and in the same manner that he was. They came with him within the prescribed limit to the Cherokee Nation, and have lived here ever since. They are identified on the roll of 1896, and they will be listed now for enrollment as Cherokees by blood. His wife is shown to have married him in 1877, and she is identified with him on the roll of 1896. They have lived together ever since their marriage, she came with him to the Cherokee Nation, but she is not included in the certificate of admission, nor has she ever been remarried to him under Cherokee law. For the further consideration of her status, the application for her enrollment as a Cherokee by intermarriage will now be placed upon a doubtful card.

◆

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 29th of September, 1900.

Commissioner.

DH52

FILED
15 1902

"R"

D 452

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Amanda E. Howell, for the enrollment of herself as a citizen of the Cherokee Nation:

Applicant was notified by registered letter on February 11, that her application to be enrolled as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by her attorney James S. Davenport, of Vinita, I. T.

There is filed in the case of Fred Macy, Cherokee No. D 453, the following Council Bill:

"COUNCIL BILL NO. 18.

An Act to re-admit Charles M. Howell and children to citizenship:

Be it enacted by the National Council:

That Charles M. Howell, Lorena E. Howell, Gracie P. Howell, Carl J. Howell and Flessie F. Howell, be and they are hereby re-admitted to all rights and privileges of Native born Cherokees. Provided, that the said Charles M. Howell and said children remove within the limits of the Cherokee Nation within six months after the approval of this Act. Otherwise this act shall be null and void.

Passed the Council Dec. 1st 1893.

J. H. Dick
Clerk of Council.
Mike Pritchett,
Speaker Pro tem Council.

Concurred in by the Senate with the following amendment, That no right accrues to the parties until the said parties settle or locate in this Nation and have reported to the Principal Chief that fact. Dec 4th 1893

J. C. Starr
Clk of Senate Pro tem
Rich'd M. Wolfe,
President of the Senate.

Approved Dec 5th 1893

C. J. Harris
(Seal) Principal Chief

I R. T. Hanks, Assistant Executive Secretary, do hereby certify that the aforegoing one page is a true and correct copy of the original as appears of record in the Executive Department of the Cherokee Nation

Given from under my hand and the Seal of the Cherokee Nation on this the 12th day of Jan 1895

R T Hanks
(Seal) Asst Executive Secy "

The Commission: The attorney for the applicant and the representatives of the Cherokee Nation present submit this case, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

D-452.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 28, 1902.

In the matter of the application of Amanda Nowell for enrollment as a citizen by intermarriage of the Cherokee nation.

Charles M. Nowell, being called as a witness, and duly sworn and examined by the Commission, testified as follows:

Q What is your name? A Charles M. Nowell.
Q How old are you? A 45 years.
Q What is your postoffice address? A Blue Jacket, I.T.
Q Are you a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee nation? A I came here in 1881, I believe it was.
Q Are you an admitted citizen? A Yes sir.
Q And came to the Cherokee nation in 1881? A I was in here at that time myself, but my family wasn't.
Q Have you been residing in the, Cherokee nation ever since 1882? A Since 1882 with my family.
Q What is your wife's name? A Amanda E.
Q Is she a white woman? A Yes sir.
Q Claiming citizenship through intermarriage? A Yes sir.
Q When was she married to you? A She was married 26 years ago., the 7th of last February.
Q Married in the states? A Yes.
Q Did you ever file your marriage certificate with the Commission?
A Yes sir.
Q It is here, is it? A Yes sir.
Q Is Amanda your first wife? A Yes sir.
Q Are you her first husband? A Yes sir.
Q Have you and your wife Amanda been living together ever since you were married? A Yes sir.
Q Living together now, are you? A Yes sir.
Q Has the Cherokee nation been your home from 1882 up to this time?
A Yes sir.
Q You never lived anywhere else? A No sir.
Q How many children have you? A Four.
Q All living? A Yes sir.

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Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R Lane

Subscribed and sworn to before me this October 29th, 1902.

B C Jones
Notary Public.

Cherokee D-452.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Amanda E. Howell as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

--:0:--

The record in this case shows that on September 27, 1900, Charles M. Howell appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of his wife, Amanda E. Howell, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 27, 1902, and on October 23, 1902. The other parties to the application are differently classified, and are not embraced in this decision.

The evidence shows that the said Amanda E. Howell, a white woman, was lawfully married on February 7, 1877, to Charles M. Howell, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on December 8, 1893. The Cherokee Supreme Court, in the cases of the Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson, held that a white woman, married to a Cherokee Indian at the time of his admission to citizenship, acquires thereby the rights of Cherokee citizenship. The said Amanda E. Howell is identified on the Cherokee Census Roll of 1896.

The evidence further shows that the said Amanda E. Howell has lived with her said husband in the Cherokee Nation continuously since his admission to citizenship therein, up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Amanda E. Howell should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-482.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Charles M. Howell for the enrollment of his wife, Amanda E. Howell, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-245.

THE MATTER OF THE APPLICATION OF

Amanda E. Howell

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. Sept. 27, 1900

B. Memo of application " "

C. Certified Copy marriage license & certif

D Notice of final consideration 2/27/0

E Sup test & order closing test 2/27/0

See Cherokee Jacket 3670

I

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900

Acting Chairman

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BEST AVAILABLE COPY

[illegible]
[illegible], I. T., [illegible], 19[illegible].

[illegible]

Q. [illegible] full name? A. [illegible].
Q. How old are you? A. [illegible].
Q. What is your post office? A. [illegible].
Q. [illegible]
Q. [illegible] A. [illegible] family.
Q. Your wife? A. Yes, sir.
Q. How many children? A. [illegible] children.
Q. Do you apply for yourself [illegible] by blood? A. No, sir, by [illegible].
Q. [illegible] A. Yes, sir.
Q. [illegible] A. About 1/16.
Q. [illegible] A. I have a [illegible], but I haven't got it [illegible].
Q. [illegible] A. No, sir.
([illegible] October [illegible], 18[illegible]4, to Miss Lorene E. Howell. [illegible] license, he [illegible] not [illegible] one. [illegible] is filed herewith.)
Q. Have you and your wife lived together as husband and wife ever since your marriage in 18[illegible]? A. Yes, sir.
Q. [illegible] Indian Territory? A. Yes, sir.
Q. Your wife's name [illegible] in the certificate of marriage [illegible]? A. No, sir, I think the way she spells her name is Lorene, otherwise it is [illegible].
Q. [illegible] your wife's [illegible] name? A. Lorene E. Howell.
Q. How old is she? A. She is [illegible] I think.
Q. Is she a native of the Cherokee Nation? A. No, sir, [illegible] home, she was [illegible] family [illegible] Howell.
Q. [illegible] of [illegible]? A. No, sir, Mr. Howell [illegible].
([illegible] No. 1[illegible], [illegible] permitted to [illegible] Lorene E. Howell.)
Q. [illegible] name of [illegible], is it? A. Yes, sir.
([illegible] recognized [illegible] wife as [illegible].)
Q. [illegible] that those [illegible] came to [illegible] of [illegible]. [illegible] 1[illegible]. [illegible] claim that [illegible]? A. Yes, sir, [illegible] wife.
Q. In [illegible], 18[illegible]? A. Yes, sir.
Q. [illegible] lived [illegible] in [illegible], 18[illegible]? A. Yes, sir.
Q. [illegible] names of [illegible] children, please? A. Vera E., 5 years old.
Q. Your next [illegible]? A. [illegible], 3 [illegible].
([illegible] of [illegible] Cooweescoowee District. Lorene E. [illegible] Cooweescoowee [illegible] Vera [illegible] No. 5[illegible], Cooweescoowee District.)

[illegible]

Q These children all living now, are they? A Yes, sir.
Q [illegible] procure a license, but [illegible] the clerk [illegible] get and send it to you? A Yes, sir.
Q [illegible] all the requirements of the [illegible] to obtain a license? A Yes, sir.
Q Did you [illegible] give a list of signers? A Yes, sir, ten citizen citizens.
Q [illegible] take your oath of allegiance to the Cherokee Nation? A Yes, sir.
Q And [illegible] the required fee? A Yes, sir.
Q [illegible] been no omissions in the proceeding omitted on your part?
A No, sir.
Q Only the clerk failed to give you official evidence of what you have done? A Yes, sir, nothing further than the certificate.

The applicant applies for the enrollment of himself, his wife and two children. His wife is shown by the official document cited in the testimony to have been admitted to Cherokee citizenship in December, 1887, she came to the Cherokee Nation within the limit required by the Act of admission in May 1888, and has resided there ever since. The marriage of them is established by the marriage license and certificate filed herewith, she is identified on the roll of 1896, and she will be listed now for enrollment as a Cherokee by blood. Her husband is shown to have married her in 18[illegible]4, according to the certificate filed herewith, he is identified with her on the roll of 1896, but he presents no license [illegible], and states that he did not procure a Cherokee license. They have lived together ever since their marriage. He states that he complied with all the legal requisites necessary to procure a license; that he presented a list of signers, took the oath of allegiance to the Cherokee Nation, and paid the fee required by law. His application for enrollment will be placed upon a doubtful card and he is required to furnish the Commission with official evidence, either [illegible], that he complied with the requirements of the Cherokee law, which should include that only the clerk had been remiss and that [illegible] should not [illegible] the [illegible] of the applicant, [illegible]. The children, Ver[illegible], is identified with her parents on the roll of 1896, [illegible] is living at this time, and she will be listed for enrollment as a Cherokee by blood. Upon the applicant furnishing with a proper certificate of the birth of the younger child, [illegible], this child also will be listed for enrollment as a Cherokee by blood.

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[illegible] Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of her stenographic notes thereof.

[illegible] Jones

Sworn to and subscribed before me this the [illegible]th of November, 1900

Commissioner.

COMMISSION TO THE F
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Acting Chairman

Department of the Interior,
Commission to the Five Civilized Tribes,
Claremore, I.T., October 23, 1900.

D. 453.

In the matter of the application for the enrollment of Fred Macy as a Cherokee citizen.

Additional testimony.

Joseph H. Lahey, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Joseph H. Lahey

Q How old are you? A 35.

Q What is your post office? A Claremore.

Q How long have you lived in the Cherokee Nation? A Practically all my life you might say.

Q Were you at one time Clerk of Cooweescoowee district? A I was.

Q Did you issue a certificate of marriage to Mr. Fred Macy? A I did

Q Did you ever issue a certificate of marriage except when there has been a marriage license issued? A No, sir.

Q He has presented a certificate of marriage here, issued by you, and it is filed in his case, but has no marriage license. Have you any personal recollection of having issued him a marriage license?

A Yes, sir.

Q Ought not the records of your office to show the fact of the issuance of the license? A I think so.

Q Where are these records? A At Tahlequah.

Q In the custody of the Executive Office? A Yes, sir.

Q Would he have been entitled to any certificate unless he had procured a marriage license? A No, sir.

Q Does the fact that he received the certificate show that he has conformed to all the requirements of the marriage license? A Yes, sir.

Q You performed the marriage ceremony? Yes, sir, I remember the circumstances very distinctly. I married them in the parlor of the Hotel Cobb at Vinita, and he had all his prerequisite papers, and I performed the ceremony and he presented the proper papers and paid the proper fee and I married them myself.

Q Did he take the oath of allegiance to the Cherokee Nation? A Yes, sir. The trouble about the license was, he presented the prerequisites for the license, and I married them and I was away from the office, and I told him I would issue the license, and I issued the license and I expect they are in the office there yet.

Q He performed all the things to entitled him to a license, did he?

A Yes, sir, he presented all the proper and prerequisites before I performed the ceremony.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 23rd of October, 1900.

Commissioner.

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Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Fred Macy, for the enrollment of himself as a citizen of the Cherokee Nation:

Applicant was notified by registered letter on February 11, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up for final consideration of the Commission on the 27th day of February, 1902.
Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by his attorney James S. Davenport.

The Commission: Is there any statement you desire to make Mr. Davenport ?

Mr. Davenport: In compliance with the request of the Commission I want to present an act re-admitting the family of Charley Howell, of which family the applicant's wife Lorena E., was one at the time of re-admission, so that the certificate may be copied, and the certificate returned to the applicant.

The Commission: The document will be filed.

Mr. Hastings: The representatives of the Cherokee Nation desire that the testimony introduced in the case of Charles M. Howell, straight card No. 1590, be introduced and made a part of the record in this case.

The Commission: The request of the representatives of the Cherokee Nation will be complied with and the testimony made a part of the record in the case at bar.

Mr. Davenport: The applicant desires to call attention to the evidence given in the case of Joe M. Lahay, who was clerk of Cooweescoowee District at the time he was married and who solemnized the marriage, upon the question of his not presenting the marriage license, showing by the clerk that it seemed to have gotten mislaid or was not recorded by him.

Mr. Hastings: The Cherokee Nation desires to call attention to the testimony filed in this case, and particularly with reference to that of Mr. Partin in the Charles M. Howell case, which shows that he was not a Cherokee by blood; and that he obtained his re-admission to citizenship by fraud.

The Commission: The attorney for the applicant and the representatives of the Cherokee Nation present, submit this case, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he reported in full all the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof

E.C. Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 6, 1902.

In the matter of the application of Bettie C. Ayers for the enrollment of herself and child as citizens of the Cherokee Nation; said Ayers being duly sworn, testified as follows:
By the Commission:

Q What is your name? A Bettie C. Ayers.
Q How old are you? A 45.
Q Your post office address? A Muskogee.
Q Do you apply for the enrollment of yourself as a Cherokee by blood? A Yes, sir.
Q Do you apply for anyone besides yourself, any children?
A Two children.
Q Give me the name of the oldest child? A Johnnie B. Ayers.
Q How old is he? A 21.
Q when will he be 21? A He was just 21 the 13th of January.
Q He is 21 years of age now? A Yes, sir.
Q It will be necessary for him to appear in person; what is the name of the next one? A Gracie E. Ayers.
Q How old is she? A 14.
Q Is she living? A Yes, sir.
Q Is she living with you? A Yes, sir.
Q What is her father's name? A John Ayers.
Q He living? A No, sir.
Q Is he a Cherokee? A No, sir.
Q Never claimed any right to enroollment as a citizen of the Cherokee Nation? A No, sir.
Q What is the name of your father? A Prettiman M. Buckner.
Q Is he living or dead? A The last I heard of him living.
Q Is he a Cherokee or white man? A Whiteman.
Q What is the name of your mother? A Emily L. Buckner.
Q Is she living? A No, sir.
Q Do you claim your right to enrollment through your mother?
A Yes, sir.
Q She was a Cherokee? A Yes, sir.
Q When were you married to John Ayers? A Married in 1878, I think.

Commission: It appears from the records of the Commission made in accordance with the Act of Congress approved June 10, 1896, that Bettie C. Ayers with others were applicants before the Commission for admission to citizenship in the Cherokee Nation under the provisions of said Act; that the application was filed with the Commission on the 31st day of August, 1896; that the answer of the Cherokee Nation was filed thereto, and the application of Bettie C. Ayers was denied by the Commission at Vinita, Indian Territory, on the 6th day of November, 1896.

Q Was your daughter, Gracie C. Ayers, embraced in that application which you made to the Commission in 1896? A We put it in, I think she was.
Q You applied at that time to the Commission for admission to citizenship? A Yes, sir.

Commission: Bettie C. Ayers applies for the enrollment of herself and child, Gracie E. Ayers, as citizens of the Cherokee Nation:

It appears from the records of the Commission that the applicant and her daughter were denied admission to citizenship in the Cherokee Nation by the Commission under the provisions of the Act of Congress approved June 10, 1896, and that no appear was taken from the decision rendered by the Commission.

In view of the fact that the applicant and her daughter were denied admission by the Commission in 1896, this application appears to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognised citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." Consequently, the application which Bettie C. Ayers makes for the enrollment of herself and child as citizens of the Cherokee Nation will be listed for rejection and their names will be placed upon a memorandum.

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I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

JORosson
Stenographer.

Cherokee D 463.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 29, 1902.

In the matter of the application of Fred Macy for enrollment as a citizen by intermarriage of the Cherokee Nation.

FRED MACY, being sworn, testified as follows:

SUPPLEMENTAL PROCEEDINGS.

By the Commission,

Q What is your name? A Fred Macy.
Q How old are you, Mr. Macy? A Thirty-seven.
Q What's your postoffice? A Bluejacket.
Q Are you an applicant for enrollment as an intermarried citizen of the Cherokee Nation? A I am.
Q What's your wife's name? A Lorene E.
Q Is she living? A Yes, sir.
Q Is she a Cherokee citizen by blood? A Yes, sir.
Q When were you married to her? A October 30, '94.
Q Had you ever been married before your marriage to this wife?
A No, sir.
Q Had she ever been married before her marriage to you? A No, sir.
Q Were you married under Cherokee license? A Yes, sir.
Q Have you filed your license with the Commission? A No, sir.
Q Where is your license? A Well, I have been unable to procure a copy of my license. No record of it, I believe.
Q Have you made proof of that fact here to the Commission already?
A Yes, sir.
Q Furnished all the proof on the subject of the license? A Yes, sir, with the exception of Mr. Howell - C. M. Howell - and my father-in-law said a witness to swear to my marriage will be here tomorrow, but I have given all the other evidence I could procure.
Q Have you and your wife, Lorene, lived together since your marriage up to the present time? A Yes, sir.
Q You have never been separated? A No, sir.
Q You and she living together as husband and wife on the first day of September, 1902? A Yes, sir.
Q Have you lived in the Cherokee Nation allthe time since your marriage to your wife in '94 up to the present time? A Yes, sir.
Q Never lived out of the Nation since your marriage? A No, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 6th day of December, 1902.

Porter
Notary Public.

Cherokee D-453.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 31, 1902.

In the matter of the application of Fred Macy for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Charles M. Howell, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Charles M. Howell.
Q How old are you, Mr. Howell? A Thirty-four.
Q What is your postoffice? A Bluejacket.
Q Are you acquainted with Fred Macy who is an applicant for enrollment as an intermarried citizen? A I am.
Q What is his wife's name? A Lorena E.
Q When was he married to Lorena E.? A '93 I believe it was.
Q Was he married under a Cherokee license? A Yes sir. He was married by the Clerk and had all signers.
Q Did you ever see his marriage license? A No sir.
Q Were you present at his marriage? A I was.
Q You saw him married? A Yes sir.
Q Has he and his wife lived together ever since his marriage? A Yes sir.
Q Never separated? A No sir.
Q Living together at this time? A Yes sir.
Q Who married them? A Joe La Hay, Clerk of Cooweescoowee District.
Q Married at his office? A No sir, married at the Cobb Hotel.
Q Was he ever married before he married this woman? A Not that I know of.
Q Was she ever married before she married him? A No sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilised Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 13th day of December, 1902.

B. C. Jones
Notary Public.

Cherokee 453.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Fred Macy for enrollment as a citizen by intermarriage of the Cherokee Nation.

DECISION

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The record in this case shows that on September 27, 1900, Fred Macy appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of himself as a citizen by intermarriage of the Cherokee Nation. The other parties to the application are differently classified, and are not embraced in this decision. Further proceedings in the matter of said application were had at Claremore, Indian Territory, on October 23, 1900; at Tahlequah, Indian Territory on December 4, 1900; and at Muskogee, Indian Territory, on February 27, October 29 and October 31, 1902. The testimony taken at Vinita, Indian Territory, on September 27, 1900, in the matter of the application for the enrollment of Charles M. Howell et al., as citizens of the Cherokee Nation, is made a part of the record herein.

The evidence shows that on October 30, 1894, the applicant, a white man, was lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, to one Lorena E. Howell, a Cherokee citizen by blood; that the said Lorena E. Howell, among others, was admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council, approved December 5, 1893, upon condition that she remove to the Cherokee Nation within six months after the approval of said Act. It appears that she removed to said Nation in May, 1894, thereby complying with the proviso in said Act. It further appears that the applicant and his said wife are identified on the 1896 Cherokee census roll.

The evidence further shows that the applicant and his said wife have lived together as husband and wife, from the date of their said marriage up to and including September 1, 1902; and that he has resided in the Cherokee Nation continuously from 1892 up to and including the date of this application.

Cherokee D-481.

-2-

It is, therefore, the opinion of this Commission that Fred Macy should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this FEB - 2 1903

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-453.

Muskogee, Indian Territory, February 2, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, granting the application of Fred Macy for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-4.

D 4.5

HE MATTER OF THE APPLICATION OF

Fred Macy

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sept. 27. 1900
B. Memo. of application " "
C. Supplemental testimony Oct. 23. 1900
D Notice of final consideration 2/27/02
Co[illegible]

C[illegible]

E Certif of readmission
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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 27, 1900.

In the matter of the application for the enrollment of Annie E. Lamar and her brothers and sisters as Cherokees by blood,

Sarah Birdsong, being sworn and examined by Commissioner Breckenridge, testified as follows:

Q How old are you? A I am 33.
Q What is your post office? A Fairland.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll, you want to have some children, do you? A Yes, sir.
Q How many children? A Five.
Q Are they your children? A Yes, sir.
Q Why do you not apply for yourself? A I married a white man.
Q You married out of your rights? A Yes, sir; his name was Lamar.
Q Give me please the names of these children, and their ages?
A Annie Lamar, 15 years old.
Q The next child? A Frank Lamar, 12 years old.
Q The next child? A Vauda Lamar, 11 years old.
Q The next child? A Maudie, 11 years old.
Q They are twins? A Yes, sir.
Q The next child? A Riley Lamar, 7 years old.
Q These children are all living now are they? A Yes, sir.
Q Give me the name of the father of these children? A Ewing Lamar
Q Cherokee or white man? A Cherokee.
Q He is dead, is he? A Yes, sir.
Q When did he die? A Two years ago.
Q Was he a native of the Cherokee Nation? A Yes, sir.
Q When did you marry him? A 14 years ago in November.
Q Have you a certificate of marriage? A No, sir.
Q Did you live with him from the time of your marriage until he died? A Yes, sir.
Q And lived all the time in the Cherokee Nation? A Yes, sir.
Q From what district was he enrolled in 1880? A Delaware district.
Q Were you enrolled with him in 1896? A Yes, sir.
Q From Delaware? A Yes, sir.

(Ewing Lamar on 1880 roll, page 280, No. 1547, Delaware district; on 1896 roll, page 484, No. 1784, Ewing Taylor Lamar, Delaware district. Sarah Birdsong on 1896 roll, page 580, No. 329, Sarah Jane Lamar, Delaware district. Annie Lamar on 1896 roll, page 484, No. 1785, Annie Elizabeth Lamar, Delaware district. Frank Lamar on 1896 roll, page 484, No. 1786, Delaware district. Vauda Lamar on 1896 roll, page 484, No. 1788, Vaud Lamar, Delaware district. Maudie Lamar on 1896 roll, page 484, No. 1787, Maud Lamar, Delaware district. Riley Lamar on 1896 roll, page 484, No. 1789, James Riley Lamar, Delaware district.

Q Have you a Jane in your name? A Yes, sir.
Q And your husband had a Taylor in his name? A Yes, sir.
Q Your child Annie, did she have an E. in her name? A It is Elizabeth.
Q Do you want that put in there? A You can if you want to.
Q Now Riley, he has got another name besides Riley? A Yes, sir, it is James Riley.
Q Did Ewing Lamar ever have any other wife before you married him? A Yes, sir, her name was Jennie.
Q What has become of Jennie? A She lives down there on the prairie.
Q Was Jennie divorced from Ewing Lamar before you married him? A Yes, sir.
Q Where was that divorce procured? A I can't tell you, I guess Mary Lamar, his sister in law, has got it.

The applicant applies for the enrollment of five children.

Annie E. Lamar —

The applicant applies for the enrollment of five children. These children, she states, are the children of herself and a former husband, Ewing T. Lamar, now dead. She does not apply for herself because she is now married to a non citizen, whom she married since the death of her Cherokee husband, Ewing T. Lamar. Ewing T. Lamar is identified on the rolls of 1880 and 1896 as a native Cherokee, and the present applicant is identified with him on the roll of 1896 as his wife. She states that they were married some fourteen years ago, and lived together as husband and wife from the time of their marriage until Lamar's death, some two years ago. She states that Lamar was married previous to his marriage to her. She is not able to present evidence of the divorce from his former wife. Now these five children as enumerated in the testimony are all identified on the roll of 1896. They are living at this time, and they will all be listed for enrollment as Cherokees by blood on a doubtful card to await more satisfactory evidence of a divorce having been procured from Lamar's first wife prior to his marriage to the applicant. She thinks that she can produce a copy of the decree of divorce, and she is required to do so and to supply it to the Commission.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 29th of September, 1900.

C R Breckinridge

Commissioner.

SUPPLEMENTAL: Cherokee D 454.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 9, 1901.

In the matter of the application of Anna E. Lamar for enrollment and for enrollment of her brothers and sisters as Cherokees by blood; (Applied for September 27th, 1900.)

SARAH BIRDSONG, being sworn and examined by Commissioner Needles, testified as follows:

Appearances:
W. W. Hastings, for the Cherokee Nation.

Q What is your name? A Sarah Birdsong, is my name now.
Q How old are you? A Me?
Q Yes? A 34 years old.
Q What is your post-office? A Fairland.
Q Live in Delaware District? A Yes sir.
Q Are you the mother of Frank? A Yes sir.
Q And Vaudie? A Yes sir.
Q And Maudie Lamar? A Yes sir.
Q And Riley Lamar? A Yes sir.
Q And Annie? A Yes sir.
BY MR. HASTINGS:
Q Were you married before you married Ewing Lamar? A Yes sir, I told you once I was.
Q What was your first husband's name? A Sam Phillips.
Q Where did you marry him? A Married him in Arkansas.
Q How long did you live with him? A About 3 months.
Q Did he die or did you separate from him? A No sir, they sent him to the penitentiary.
Q Sent him to the penitentiary? A Yes sir, for 5 years.
Q Now when did they send him to the penitentiary? A That has been about 20 years ago, near about 20.
Q That's while you were living with him as his wife? A Yes sir.
Q You never had any legal divorce from him other than just the fact that they sent him to the penitentiary? A No sir, I went right to Fayetteville and got a divorce.
Q You remember when you got that? A No sir, I don't, but it was right away after he left.
Q Did you have any children when you married Ewing Lamar? A No sir.
Q You had never had any? A No sir, none only by him.
Q Had you secured the divorce before you married Ewing Lamar or afterwards? A Yes sir, I had it when we was married.
Q You had already gotten it? A Yes sir 5 years ago.
Q And you had never married again until you married Ewing? A No sir
Q Can you give me the exact time of your marriage to Ewing Lamar? A I think not; that man there can; uncle john Ewing sitting yonder.
Q Well do you know when you married him, what year? A No sir, I can't, let me see, we have been married 15 years last November.
Q That will be 16 this coming November wont it? A Yes sir.
Q Then you were married in 1885? A (No reply)
Q Well now, do you know the exact date of the birth of Annie, your oldest child? A She is 16 years old, this last September.
Q She was born then 2 months before you married Ewing? A No, she wasn't; you have got it wrong; we was married just 11 months when she was born.
Q Now you said that she was almost 16 didn't you? A Yes sir.
Q Then you said you would not have been married to him 16 years until this coming November; that is a mistake is it? A Yes sir. I guess it is; you see-
Q Just want to get the straight of it; that's all? A Well, wait and let me tell you; it will be 17 years the 9th day of November.
Q When you married him? A Yes sir.

Q Who married you? A Fellow named Kirkpatrick.

Q Where? A Here in the Territory.

Q Was this man yonder present when you married him? A Yes sir.

JOHN EVANS, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Evans.

Q What is your age, Mr. Evans? A 56.

Q What is your post-office? A Fairland.

Q Are you a Cherokee citizen? A Yes sir.

Q By blood? A No sir.

Q By intermarriage? A Yes sir, adopted citizen.

Q Do you know Sarah Birdsong? A Yes sir.

Q What relation is she to you? A None.

Q Did you know her husband, Ewing Lamar? A Yes sir.

Q You know when they were married? A Yes sir.

Q When? A I couldn't give you the date precisely, married about '84 I think, somewheres along there.

Q Were you present at the marriage? A Yes sir.

Q Who married them? A Fellow name of Kirkpatrick.

Q You know her oldest child, Anna? A Yes sir.

Q You know when Anna was born? A Yes sir.

Q When? A I couldn't give you the date.

Q Was it after their marriage? A Yes sir.

Q Are you positive of that? A Yes sir.

Q You have known this family intimately have you? A This woman?

Q Yes sir, and her family? A Yes sir, I got acquainted with her ever since she was, (indicating a certain height.)

BY MR. HASTINGS:

Q Mr. Evans, did she have any children when they married? A No sir

Q Now you think it was in '84? A Yes somewheres along right in there; I seed them married.

Applicant, SARAH BIRDSONG, re-called, and further examined:

BY MR. HASTINGS:

Q Now I want to know, Mrs. Birdsong, if you know the exact age of that oldest child Anna, the exact date of its birth? A No sir, it has slipped my mind; I could have fetchedit.

Q Do you know that she is 18 now? A Yes sir.

Q You swear that? A Yes sir.

Q You are positive about it? A Yes sir.

Q In September? A Yes sir, wont she be, Uncle John? (Speaking to witness)

Witness: She is somewheres right along there; course I dont know the dates, because I wasn't interested.

Applicant: Well, I have got it set down at home; it has slippedmy mind.

BY COM'R NEEDLES:

Q Did Ewing have the divorce from Jennie when you married him? A I don't know; he always told me he had one; and when this come up I had this got. (Referring to paper.) I never did see one.

Witness, JOHN EVANS, re-called and further examined;

BY COM'R NEEDLES;

Q But you are satisfied, Mr. Evans, that Anna was born after Ewing and Mrs. Birdsong were married? A Yes sir.

Q Do you recollect about how long after? A Something toward a year.

SARAH BIRDSONG, re-called and further examined;

By COM'R NEEDLES:

Q Now, Mrs. Birdsong, could you send over there to Arkansas and get a copy of your divorce? A Yes sir.

Anna E. Lamar 3

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Q Well, you had better do that. You need not bring it. You can send it to us by mail.

COM'R NEEDLES: It appears from the testimony taken in this case, and the judgment rendered on the 27th day of September, 1900, that inorder that the children applied for be listed for enrollment as Cherokees by blood, it was found necessary that satisfactory proof be made of the divorce obtained of Ewing Lamar, father of said children, from his first wife, Jennie Lamar, which at that time was not filed. And now comes Sarah Lamar, mother of said children, and files satisfactory proof of said divorce having been granted; the certificate of same being certified to by B. W. Alberty, Assistant Executive Secretary,~~mf~~ under the Great Seal of the Cherokee Nation, which will appear to ~~supply the~~ complete the record as to the right of said children for enrollment as Cherokees by blood.

It will be necessary for Mrs. Birdsong also to file a certified copy of divorce from her first husband; the testimony having developed the fact that she was married before she married Lamar, the father of the children.

BY MR. HASTINGS: The Representatives of the Cherokee Nation call particular attention to the date of the divorce of Ewing Lamar from his wife, Jennie, and the date of the alleged marriage of the mother of these children to Ewing Lamar.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this October 10th, 1901.

Commissioner.

"R"

D 454

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Sarah Birdsong, for the enrollment of her brothers and sisters as citizens of the Cherokee Nation:

The said Sarah Birdsong was notified by registered letter on February 11, 1902, that her application for the enrollment of her brothers and sisters as citizens of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that she could on said date, appear before the Commission and introduce any further testimony affecting her application.

Receipt has been acknowledged of the Commission's letter.

The said Sarah Birdsong having been this day, to-wit: the 27th day of February, 1902, called three times, and failing to respond either in person or by attorney, it is directed that the case be closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee D-454

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Annie E., Frank, Vauda, Maudie and James R. Lamar, as citizens by blood of the Cherokee Nation.

DECISION.

On September 27, 1900, Sarah Birdsong appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of her minor children, Annie E., Frank, Vauda, Maudie and James R. Lamar, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 8, 1902.

The evidence shows that the minor applicants are the children of Sarah Birdsong, a white woman, and Ewing Lamar, a Cherokee, who is identified on the authenticated tribal roll of 1880, and the applicants are therefore the descendants of said Ewing Lamar, born since the date of that roll. All the applicants are identified on the Cherokee census roll of 1896.

The evidence further shows that the applicants resided with their parents in the Cherokee Nation, until the death of their said father two years prior to the date of this application, and their residence on June 28, 1898, is therefore considered to be established in said nation.

It is, therefore, the opinion of this Commission that Annie E. Lamar, Frank Lamar, Vauda Lamar, Maudie Lamar and James R. Lamar, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this MAR - 2 1903

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D-454

Muskogee, Indian Territory, March 12, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, granting the application of Sarah Birdsong for the enrollment of her minor children, Annie E., Frank, Vauda, Maudie and James R. Lamar, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-322

THE MATTER OF THE APPLICATION OF

Anna E. Lamar et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep. 27-1900.
B. Memo of application Sep 27-1900.
C Certified copy of decree of divorce
D Notice of final consideration 2/27/02
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E Order closing testimony 2/27/02

Cancelled and transferred to Cherokee No 10218

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DEPARTMENT OF THE INTERIOR
OMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
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ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., SEPTEMBER 27, 1900.

In the matter of the application of John Cobb Welch for the enrollment of his mother, Lucinda Welch, as a citizen of the Cherokee Nation; said Welch being sworn by Commissioner T. B. Needles, testified as follows:

Q What is the name of your mother? A Lucinda Welch.
Q How old is your mother? A 75, too old and infirm to come here.
Q What is her post office address? A Grove.
Q Is she full blood Cherokee? A No, sir.
Q What degree of blood has she? A She is a white woman.
Q What is the reason she is not here? A She is too old and feeble to come.
Q What is her name? A Lucinda Welch.

1880 enrollment; page 358, #2949, Lucinda Welch, Delaware.
1896 enrollment; page 593, #558, Lucinda Welch, Delaware.

Q Is your father living? A No, sir, he has been dead 14 years.

Com'r Needles:--Upon examination of the records of the Dawes Commission it is found that the said Lucinda Welch made application to said Commission in the year 1896, in case No. 4436, for enrollment as a citizen of the Cherokee Nation, and the record shows that said application was denied. No appeal was taken. The facts in the case are that the said Lucinda Welch's name appears upon the authenticated roll of 1880 as an intermarried white, and she has lived in the Cherokee Nation ever since the year 1867, and is now 75 years of age. Her name also appears, as stated, upon the records of the Dawes Commission as having applied, as stated above, and having been denied; consequently final judgment as to the application of the said Lucinda Welch will be suspended and her name will be placed upon a doubtful card

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 1st day of October, 1900.

T B Needles

Commissioner.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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ACTING CHAIRMAN

D-455.

Department of the Interior.
Commission to the Five Civilized Tribes.
Tahlequah, I. T., December 17, 1900.

In the matter of the enrollment of Lucinda Welch.

SUPPLEMENTARY TESTIMONY#

Witness, J. C. Welch, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A J. C. Welch.
Q What is your age? A I will be 51 years old.
Q You know Lucinda Welch? A Yes sir, she is my mother.
Q What is your postoffice? A Grove.
Q What statement do you desire to make now in regard to her enrollment? A All the statement I have to make is that she wasn't able to appear in person. She is too old and crippled up and cannot come.

By W. W. Hastings, representative of the Cherokee Nation-
Q Did she apply to the Dawes Commission in 1896? A She says she didn't, and didn't know anything about it.
Q She is too old to come and make that statement to the Commission? A Yes sir; she is crippled up and couldn't come here herself.
Q With whom was she living in 1896; four years ago? A She was living by herself. Her brothers were staying there with her.
Q You know whether she authorized anyone to make an application for her? A I don't think so; I don't know anything about it myself.
Q What did she say about it? A She said she didn't authorize anybody to.
Q Did she know anything about it? A She said she didn't.
Q Was her first knowledge of it after you had told her after you went back to Vinita? A That was the first she knew.
Q You went back and advised her of it? A She didn't know anything about it, and I told her her name appears on that roll, and she said she didn't know anything about it.
Q Did some of yours, or her relatives, living up [illegible] near there, make an application? A Yes sir, her brothers. She had three brothers living there.
Q What do they say about this - what explanationde they make? A They all deny it, never could find out. They all deny it is all I know. I don't know anything about it. I have an idea that old Uncle Johnny Parker and Harvey Hampton sent them in, but I don't know.

Commissioner Needles-
Q Your mother claims citizenship as an intermarried citizen? A Yes sir.
Q Her husband's dead? A Yes sir.
Q Was she ever married since? A No sir.
Q Your father was an Indian by blood? A Yes sir.

E.G.Rothenberger, being duly sworn, states that as stenographer to the Commission to the Five Civilised Tribes, he reported in full the supplementary testimony in the above case, and that the foregoing is a full, true and correct transcript of his stenographic notes in said case.

E. G. Rothenberger

Subscribed and sworn to before me this 10th day of January, 1901.

T B Needles
Commissioner.

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Department of the Interior;
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Lucinda Welch, for the enrollment of herself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 11, 1902, that her application for the enrollment of herself as a citizen of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that she could on said date appear before the Commission either in person or by attorney, and an opportunity would be given her to introduce any further testimony affecting her application.

Receipt has been acknowledged of the Commission's letter.

Mr. Hastings, of counsel for the Cherokee Nation: The representatives of the Cherokee Nation desire to call attention to the affidavit made by her before J. C. Starr, Notary Public, filed in the original application before the Dawes Commission in 1896, she having introduced some testimony tending to show that she did not apply, or knew of any application being made for her, and this reference is made for the purpose of calling attention of the Commission to the fact that she must have known of this application being made in her behalf, or else she would not have made the affidavit referred to.

The Commission: The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that this case be closed, and that the same be reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee D-455.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
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In the matter of the application for the enrollment of Lucinda Welch as a citizen by intermarriage of the Cherokee Nation.

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DECISION.

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The record in this case shows that on September 27, 1900, John Cobb Welch appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his mother, Lucinda Welch, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Tahlequah, Indian Territory, on December 17, 1900, and again at Muskogee, Indian Territory, on September 12, 1902, and October 10, 1902.

The evidence shows that the said Lucinda Welch, a white woman, was married prior to 1880 to one James Welch, a native Cherokee, who is identified on the 1880 Authenticated Roll of the Cherokee Nation. Lucinda Welch is also identified on said roll. Her said husband had been dead about ten years when this application was made, and she had not remarried since his death up to and including September 1, 1902. The evidence further shows that this applicant has resided continuously in the Cherokee Nation since her marriage prior to 1880 up to and including September 1, 1902.

From the records of the Commission, it appears that the applicant filed her original petition, under the Act of Congress of June 10, 1896, (29 Stats., 321) with the Commission to the Five Civilized Tribes for admission as a citizen by blood of the Cherokee Nation, which was denied by the Commission, and no appeal was taken therefrom.

It is the opinion of this Commission that the applicant's right to enrollment as an intermarried Cherokee is not prejudiced by the denial of her application for admission as a citizen by blood under the provisions of the said Act of June 10, 1896, (29 Stats., 321); and that the said Lucinda Welch should, therefore, be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Sgd. Tams Bixby
Acting Chairman.

Sgd. T. B. Needles.
Commissioner.

Sgd. C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

F. R. COPY Cherokee 10030.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Lucinda Welch as a citizen by intermarriage of the Cherokee Nation.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, September 27, 1900, application was received by the Commission to the Five Civilized Tribes for the enrollment of Lucinda Welch as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Tahlequah, Indian Territory, December 17, 1900, and at Muskogee, Indian Territory, February 27, 1902, September 25, 1902, October 10, 1902, February 8, 1907, and February 9, 1907. It further appears that on December 10, 1902, the Commission to the Five Civilized Tribes rendered its decision herein, granting the application of Lucinda Welch for enrollment as a citizen by intermarriage of the Cherokee Nation.

THE RECORDS OF THIS OFFICE SHOW: That the applicant herein, Lucinda Welch, a white woman, who is identified on the Cherokee authenticated tribal roll of 1880, Delaware District, Page 338, No. 2949, and on the Cherokee census roll of 1896, Delaware District, Page 593, No. 558, was married in about the year 1846 in the State of Georgia to one James Welch who is identified on the Cherokee authenticated tribal roll of 1880, Delaware District, Page 338, No. 2948, as a native Cherokee. It further appears that in the year 1867, the said James Welch and Lucinda Welch removed to the Cherokee Nation and resided together as husband and wife, and continuously lived in said Nation until the death of James Welch in 1886; that since the death of James Welch, the applicant herein, Lucinda Welch, has not remarried and has continuously lived in the Cherokee Nation up to and including September 1, 1902.

The evidence does not show the date of admission of James Welch to citizenship in the Cherokee Nation.

Mollie Henson testified on February 8, 1907, that it was her understanding that James Welch exercised all the rights of a citizen of the Cherokee Nation, that he drew money, voted in the elections and held land the same as other citizens.

The same date, Augustus C. Sager testified that James Welch, when he first became acquainted with him in 1871, was regarded as a citizen of the Cherokee Nation.

John Cobb Welch on the same date testified that it was his understanding that James Welch was admitted to citizenship in the Cherokee Nation in the year 1867 and had thereafter been recognized as a citizen of such Nation and enjoyed the same rights and privileges accorded other citizens.

I am therefore of the opinion that it is shown by a preponderance of the evidence that the said James Welch was admitted to citizenship in the Cherokee Nation prior to November 1, 1875.

In view of the foregoing, it is considered that the applicant, Lucinda Welch, was lawfully married to a citizen by blood of the Cherokee Nation, prior to November 1, 1875.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That the decision of the Commission to the Five Civilised Tribes dated December 10, 1902, granting the application of Lucinda Welch for enrollment as a citizen by intermarriage of the Cherokee Nation, should be affirmed; and that in accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, the said applicant, Lucinda Welch, is entitled under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat. 495), to enrollment as a citizen by intermarriage of the Cherokee Nation and her application for enrollment as such is accordingly granted.

SIGNED Tams Bixby
Commissioner.

Dated at Muskogee, Indian Territory,

this [illegible] 22 1907.

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COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R BRECKINRIDGE.

ALLISON L AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-455.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of John Cobb Welch for the enrollment of his mother, Lucinda Welch, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-235.

REFER IN REPLY TO THE FOLLOWING:
Cherokee 10030

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 23, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:-

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, granting the application for the enrollment of Lucinda Welch as a citizen by intermarriage of the Cherokee Nation.

Respectfully,

Commissioner.

Encl. E-87
BLE

IN THE MATTER OF THE APPLICATION OF

Lucinda Welch

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 27-1900

B. Memo of application Sep 27-1900

C. Letters relative to application.

D. Supplementary testimony Dec 17-1900

Copies [illegible]

N [illegible]

C [illegible]

E Notice of final consideration 2/27/12

F Order closing testimony 2/27/02

See Cherokee Jacket 3610

Cancelled [illegible] 100

Cher D 456

Cher D 456

DH56

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible]
ACTING CHAIRMAN

D[illegible] AS TO APPLICANT.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 2[illegible], [illegible].

In the matter of the application of Abram [illegible] for the enrollment of himself and children as Cherokee citizens; he being sworn and examined by Commissioner Breckinridge he testified as follows:

Q Give us your name? A Abram [illegible].
Q How old are you? A 49.
Q What is your post-office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and children.
Q No wife? A No sir.
Q How many children? A 4 children.
Q Do you apply for yourself as a Cherokee by blood? A Adoption
Q Have you your marriage license and certificate. A (Produces certificate)
Q Where is your license? A Burned up when my house burned.
Com'r Breckinridge: The applicant presents certificate showing that he was married to Miss [illegible] [illegible] on the 2[illegible]th day of January 1874 by the Rev. Hamilton Valentine.
Q How long did you and your wife live together after your marriage in 1874? A About 11 years.
Q Then did she die? A Yes sir.
Q Was she a Cherokee? A Yes sir.
Q Have you ever married since she died? A Yes sir.
Q To whom did you marry the second time? A Angeline Crowder.
Q What was her maiden name? A Moore.
Q Is she a Cherokee or a white woman? A I couldn't tell; she claims she was Cherokee, and some says she wasn't.
Q When did you marry her? A 1887.
Q Is she living now? A No sir.
Q How long did you and she live together? A About three weeks.
Q Then you separated? A She died.
Q Did she die in 1887? A Yes sir.
Q How old was she when she died? A She was about 19 I think.
Q Have you married since her death? A Yes sir.
Q To whom did you marry the third time? A Her name was Lillie Jones.
Q When did you marry her? A 1888.
Q Are you and she living together now? A No sir.
Q Is she dead or alive? A She is living.
Q Is she a Cherokee or a white woman? A She is Cherokee.
Q Have you ever been divorced from her? A Yes sir.
Q When were you divorced from her? A 2 years ago.
Q Have you married since you were divorced from her? A No sir.
Q Have you a copy of the decree of divorce? A Yes sir. (Produces papers)
Com'r Breckinridge: The applicant presents an official copy of the records of divorce between himself and his last wife [illegible] by him granted by the [illegible] Term [illegible] of the United States Court Northern District of the Indian Territory at Vinita, by Judge John R. Thomas in which he is granted a divorce from his wife and is given the custody of the minor children; this is xxxxx returned to the applicant.
Q Now give me the names of these children please? A William A.
Q How old is that child? A 19.
Q The next child? A [illegible] E.
Q How old is she? A She is 17.
Q The next child. A Myrtle E.

Q How old is that child? A 11.
Q Next child? A Ethel May.
Q How old is that child? A Six.
Q Which of these children are the children of the first wife?
A The two oldest.
Q Which are the children of the second wife? A There isn't any.
Q The two youngest are the children of your third wife? A Yes sir.
Q Your wife, Tillie Jones, was Jones her maiden name? A No sir.
Q What was her maiden name? A Dennis.
Q How old is she now? A She is about 30
Q She is still alive? A Yes sir.
Q She was a Cherokee in 1880? A Yes sir.
1880 roll page 136 #1797 A. B. Hook Cooweescoowee Dist; Adopted white;
1880 roll page 136 #1798 Martilla Hook, Cooweescoowee, native Cher;
1880 roll examined for second wife, Angeline Moore, and name not found thereon.
Applicant: I think my other wife was on the roll as Stinger, that was her fx step-father's name.
1880 roll examined for present wife, and name not found.
1896 roll page 314 #629 Abram Hooks, Cooweescoowee District;
1896 roll page 315 #3073 Wm. A. Hooks,
1896 roll page 315 #3074 [illegible]
1896 roll xx examined for last two children, and their names not found thereon.
Q Why didn't they enroll these children in 1896? A They wouldn't enroll them. And we applied to Council to have them enrolled.
Q Why wouldn't they enroll them? A Because the mother of the childrens name was wrong on the roll of 1880; she was enrolled on the roll of 1880 as Tillie Stinger.
Q Where is the mother of these two latter children living now?
A She is living up near Edna, this side of the State line.
Q You didn't get a license when you were married the 3rd time?
A Never got any license only when I married the first time.
Q Have you any reason to xxxxx believe that your second wife can be identified on the roll of 1880? A I don't think she can only by that name.
Q I am talking about your second wife? A I don't think--in fact I don't know anything about her; her mother is living; she was living at Catoosa not long ago.
Com'r Breckinridge: You look like you married out when you married the second time, and the rejection by the authorities of the children of the third marriage xxxxx strongly confirms that marriage; I will have to reject you, and if later you can get any evidence, of which there seems no earthly sign, showing that your second wife is on the roll of 1880, you can bring it up.

Com'r Breckinridge: The applicant applies for the enrollment of himself and four children; he is identified on the rolls of 1880 and 1896 as an intermarried white; his Cherokee wife to whom he was married in 1880 died 11 years after he was married to her in 1874; he married a wife in 1887 who would be [illegible] years old at this time, who died in three weeks after their marriage, and who cannot be identified upon the roll of 1880; it seems that at this point he married out of his Cherokee rights; after the death of this wife he married again in 1889; this wife cannot be identified upon the roll of 1880; they were divorced in two years after their marriage; her age at this time is said to be thirty years, and even if she be a Cherokee woman, he did not rehabilitate himself by procuring a Cherokee license for his last marriage; it is not seen that he really has any grounds for enrollment at this time; but for the present his application for his own enrollment will be placed upon a doubtful card.

Two of his children are the children of his first marriage, [illegible] are identified on the roll of [illegible] will be listed now for [illegible] younger children, [illegible] the third and [illegible] as [illegible] cannot be identified [illegible] it is not seen that they can possess [illegible] respectively [illegible] years of age; but not [illegible] on the roll of 1896 [illegible] is rarely seen upon [illegible] children [illegible] listed for enrollment, but to give them the benefit of any doubt whatever that may exist, they will for the present be listed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 28 day of September 1900.

Commissioner.

DEPARTMENT [illegible]
COMMISSION TO THE [illegible]
FILE
NOV 8 1901

SUPPLEMENTARY TESTIMONY to go with Card "D" 456.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T., OCTOBER 2nd, 1900.

IN THE MATTER OF THE APPLICATION OF Tillie Miller for the enrollment of her children, Ethel and Myrtle Meeks, as citizens of the Cherokee Nation, and she being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Tillie Miller.
Q How old are you? A Thirty/
Q What is your Postoffice? A Edna, Kansas.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll; Two children?
A Yes sir / Ethel and Myrtle Meeks.
Q You, yourself, were enrolled just now by your husband, were you not? A Yes sir.
Q When did you marry your husband Miller? A In February of this years.
Q What was the name of your former husband? A Abe Meeks.
Q When did you marry him? A Twelve years ago.
Q How long did you live with him? A Nine years.
Q Was he a Cherokee or white man? A White man.
Q Have you ever had a divorce from him? A Yes sir.
Q Was the divorce granted you, or him? A Granted him.
Q Was the custody of the children given to you or given to him?
A Given to him.
Q Give me the names of the children? A Myrtle L. Meeks.
Q How old is that child? A Ten years old.
Q What is the name of the next one? A Ethel R. Meeks.
Q How old is that child? A Six years old.
Q Both living now, are they? A Yes sir.
Q Give me the name of your mother? A Louisa Stinger.
Q She is living now? A Yes sir.
Q She is a Cherokee, is she not? A Yes sir.
Q She is on the roll of 1880, as a Stinger? A Yes sir.
Q How are you on the roll of 1880? A As a Stinger too.
Q Did they call you Mattie Stinger at that time? A It was put in that way.
Q You were born in the Cherokee Nation? A Yes sir.
Q You have lived here all your life? A Yes sir.
Q Was your mother's husband in 1880 named David Stinger? A Yes sir.
(1880 Roll, Page 178, #2725, Mrs. David Stinger, Cooweescoowee District)
(1880 Roll, Page 178, #2726, Mattie Stinger, Cooweescoowee D'st)
Q Stinger was your step father? A Yes sir.
Q Your own father was named what? A Dinny.
Q You had no sister named Mattie? A No sir.
Q They just put that name for you in 1880? A Yes sir; they just put it down that way.

The applicant applies for the enrollment of two children. It is found that they have already been enrolled upon Card "D" 456. The testimony now given will be made supplementary to that accompanying "D" Card 456, and it is shown in this testimony that the mother of these children is a native Cherokee, and she is identified on the roll of 1880 These are her children by a former marriage to a man named Meeks, from whom she has procured a divorce, as she states, after having lived with him from the time of their marriage some twelve years ago, about nine years.

The undersigned, being sworn, states that as a stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

[illegible] scribed [illegible]
[illegible] day of

COMMISSIONER.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 31st 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Abraham Meeks, Cherokee Doubtful case #456.

Appearances;
W. H. Karnegay for the applicant,
J. L. Baugh for the Cherokee Nation.

NANCY MOORE, being first duly sworn by Commissioner T. B. Needles, testified as follows on the part of the applicant;
(By Mr. Karnegay)
Q State your name? A Nancy Moore.
Q How old are you? A I am 71 the 18th of next January.
Q Where do you live and what is your post office? A Catoosa.
Q Indian Territory? A Yes sir.
Q How long have you lived there? A A little over ten years.
Q Where did you live before you went to Catoosa? A At Whiteoake.
Q How far from town here? A Eight or ten miles.
Q Do you know Abraham Meeks, the applicant? A Yes sir.
Q Did you know his second wife? A I know who they said she was.
Q Did you know Angeline Crowder? A Yes sir .
Q What relation was she to you? A I am her mother.
Q When did she die? A She died in '87, I reckon it was.
Q Was she ever married? A Yes sir.
Q How many times? A She married twice before she married Meeks.
Q Who was her first husband? A William Parris.
Q Was he a Cherokee? A Yes sir.
Q By blood? A Yes sir.
Q Where did he marry her? A In Goingsnake district.
Q Where did she live at that time? A There.
Q Where did you live then? A With her.
Q Where did she live after she married Parris? A We came west here and have lived here ever since.
Q What became of Parris? A He got into trouble and skipped the country.
Q How long after he married your daughter before he left? A Some two years.
Q What year did he marry your daughter? A In '81.
Q When, after that, did your daughter marry Crowder? A In March '86.
Q Had she lived with you all the time up to that time? A Yes sir.
Q Had she ever been divorced from Parris? A No sir.
Q How long did she live with Crowder? A They was married in March and lived together until the next August come a year.
Q What became of Crowder? A He went astray like a good many other men and afterwards got drownded in the Verdigris river.
Q When did they cease living together? A Eight days from the time her baby was born.
Q When was the child born? A In August '86.
Q What was the name of that child? A Her name?
Q No mam, the child's name? A Rosa Lee.
Q When did Crowder drown? A He was drownded I reckon the spring of '88, I believe it was '87 or '8, he was burried pretty close to where I live.
Q Where did your daughter live after Crowder left her? A With me.
Q When did she and Meeks get married? A They got married just before the baby was a year old.
Q Where had she been living from the time that Crowder left her until she married Meeks? A With me.
Q Was she ever divorced from Crowder? A No sir.
Q What became of her child by Crowder? A I have got her yet.
Q Have you kept her ever since your daughter died? A Yes sir.
Q State if she has ever drawn money from the Cherokee Nation at its payments? A Yes sir in '94.

Q What money was it she drew? A The grass money.

Q Did she draw the Strip money? A Yes sir.

Q Who was that money paid to originally by the Nation ? A Billy Moore paid it to me, but Neilson was the man that drawed it.

Q Have you ever participated in any paymentyourself? A Yes sir.

Q What one did you participate in? A The bread money in '73 or '4 and the grass money.

Q Did you, after the time that Abraham Meeks was married to your daughter, draw any money? A No sir.

Q When was the last time you drew any money ? A The last payment before the Strip payment.

Q What year was that? A I reckon in '91. I never kept no ledger of anything and dont know the time exactly.

Q Were you drawing as an adopted citizen or as a citizen by blood? A By blood.

Q Was your daughter recognized as a citizen of the Nation? A She was as my child, same as any other Cherokee child.

(By Mr. Baugh)

Q Does your name appear upon the authenticated roll of 1880? A Yes sir,I think it does.

Q Does your daughter's name appear on that roll? A On the '80 roll— no, let me see, I was not on the '80 roll, I was in Texas at that time on a visit.

Q When did you leave this country and go to Texas? A I disremember exactly, I think it was in seventy something. I ~~disremember~~ disremember I reckon it was in '78 or '9.

Q Had you lived in the Cherokee Nation all your life up to the time you moved out in '78 or '9? A No sir I didn't move out then, I never have moved out of the Nation since I come in in '71.

Q What was you doing in Texas? A I was there on a visit.

Q How long did you remain there? A I dont remember exactly, I didn't move, I had some staock here.

Q Is your name on the roll of 1896? A I guess it is.

Q Do you know if it is or not? A Is that the roll that they drawed the money on?

Q No,the one taken five years ago? A I recollect now, no I am not on it because I wasn't on the '80 roll they wouldn't put me on that.

(By the Commission)

Q Where were you born? A Right close to the North Carolina line.

Q How old were you when you come to the Cherokee Nation? A I left there in '56.

Q And come right on the the Cherokee Nation? A No sir.

Q When did you come to first? A Mississippi.

Q When did you come on to the Cherokee Nation? A In '71.

Q Didn't you say you went to Texas? A That was afterwards on a visit.

Q What year was that in? A I went down there I think about '78 or '9, I disremember exactly.

Q How long did you stay in Texas? A Well I staid on close to two years.

Q Where was Angeline born? A In Texas.

Q You were living in Texas when she was born? A Yes sir.

Q When did you come back to the Cherokee Nation after you lived in Texas that time? A I guess I come back—I come back I think the same year I went in—I would have come back right away, would have come back sooner than I did if it had not been on account of sickness,

Q Now, did you come back before or after '80? A I was in Texas in '80.

Q Were you re-admitted by the Cherokee Council after you come back? A No sir.

Q You never have been re-admitted? A Mr. Ross wrote to me about it and I wrote when I had moved out and when I come back and he wrote that it was no use for me to be re-admitted that I was all right.

Q What did I understand you to say about that money you drew from the Cherokee Nation—did you draw the Strip money? A No sir.

Q You didn't draw the Cherokee Strip money? A No sir.

Q Did Angeline draw it? A She was dead, Angeline's daughter drawed it.

By Baugh)

Q You never was recognized by the Cherokee Nation—by the authorities were you? A I thought I was, I carried evidence to the Council.

Q You moved from Mississippi to the Cherokee Nation and never was admitted to citizenship, were you? A I thought I was, I carried evidence to the Council.

Q What did they Council do? A They told me it was all right.

Q Did they ever give you a certificate? A No sir they never, I didn't know anything about that, had no knowen that way.

(By the Commission)

Q Did Abraham Meeks marry Angeline Crowder? A Yes sir.

Q Where did they marry? A At his house in the Cherokee Nation.

Q Did you see them married? A No sir.

Q How long did they live together as man and wife? A Well it was but a short time, they wasn't married more than three weeks and then she died.

Q Were they regarded as man and wife? A Yes sir.

(By Baugh)

Q Was this Mr. Crowder dead when she married Meeks? A No sir.

Q She was never divorced from Crowder? A No sir.

MARTIN McDaniel, being first duly sworn by Comm'r T. B. Needles testified as follows on the part of the [illegible] applicant:

(By Mr. Karnegay)

Q State your name? A Martin McDaniel.

Q How old are you? A 58.

Q What is your post office? A Catoosa.

Q Are you a citizen of the Cherokee Nation? A Yes sir.

Q How? A By blood.

Q Do you know Meek's second wife, Angeline Crowder? A Yes sir.

Q Do you know the fact of her marriage to a man named Crowder? A Yes sir, she was married to Crowder, I saw them married.

Q When did they quit living together as man and wife, or did they quit? A Yes sir, he quit her I think.

Q Do you know when she married Abraham Meeks after that? A Yes sir about a year after.

Q Where was Crowder at the time she and Meeks married? A He was backward and forward from this country to the States.

Q Was he still living? A Yes sir.

Q How long after that was it before he returned? A A year or more.

Q Were you living near where this Crowder woman was living about up to the time she married Abraham Meeks? A Yes sir.

Q How close? A Half a mile apart.

Q Did you ever know of her getting a divorce from Crowder? A No sir.

Q Where was she living at that time? A She was at my house.

Q Where is that? A Whiteoak.

Q How far from here? A Ten miles.

Q In theCherokee Nation? A Yes sir.

(No questions by the Cherokee Nation)

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This will be filed with the papers in the case .

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Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this 28th of October, 1901.

Commissioner.

"R"

D 456

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Abram Meek, for the enrollment of himself and children as citizens of the Cherokee Nation:

Applicant and his attorney were notified by registered letter on February 11, 1902, that the application of Abram Meek for the enrollment of himself and children as citizens of the Cherokee Nation would be taken up for final consideration by the Commission on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by his attorney W. D. Humphrey, representing W. H. Kornegay, of Vinita, I. T.

The Commission: Is there any statement you desire to make Mr. Humphrey ?

Mr. Humphrey: The applicant was required to supply the Commission with a certified copy of his marriage license and certificate of marriage to his first wife Barrilla Schrimsher, and also a certified copy of the decree of divorce from said wife.

The Commission: There is offered in evidence a certificate signed by Hamilton Ballentine, a minister of the gospel, certifying that he did, on the 20th day of January, 1874 unite Abraham Meek in marriage to Miss Barrilla Schrimsher. The license and certificate are filed herewith. There is also offered in evidence a certified copy of the marriage record certifying that Abram Meek, a citizen of the United States was licensed to marry Barrilla Schrimsher, a female citizen of the Cherokee Nation on the 10th day of January, 1874. This document is also filed. There is offered in evidence a certified copy of the decree of divorce between Lillie Meeks and Abram Meeks granted in the United States Court for the Indian Territory, Northern District, at Vinita, October term, 1899. The same is filed.

Mr. Humphrey: In this case the applicant Abram Meek bases his right to enrollment upon the citizenship acquired by marriage to the said Lillie Schrimsher who was an Indian woman by blood, said marriage being entered into in accordance with the laws of the Cherokee Nation, and the applicant does not believe that he forfeited his citizenship by his marriage to the Mrs. Crowder referred to in the evidence in this case, for the reason that at the time of the marriage of this applicant to the said Mrs. Crowder Mrs. Crowder had a living husband from whom she had not been divorced. Such being the case the reputed marriage was a nullity.

Mr. Hastings: The Cherokee Nation contends that this man's marriage to his second wife forfeited his citizenship under section 666 of the Compiled Laws of the Cherokee Nation, (1892).

Mr. Humphrey: The contention of the attorney for the Cherokee Nation would be proper if the said marriage were valid, but as the said Mrs. Crowder had a living husband from whom she had not been divorced she could not contract with and enter into a valid marriage at that time.

Mr. Hastings: This man treated this marriage as a valid marriage; he recognized it as such; he held this woman out to the world as his wife, and treated her as such and never repudiated her as shown by the testimony.

Mr. Humphrey: If he did hold her out as his wife, if, under the law the marriage was invalid, such marriage could effect in no way the property rights of either party to such marriage. The marriage was a nullity--was absolutely void, and changed the status of neither party to said marriage.

Mr. Hastings: This man had no property rights within the Cherokee Nation other than that acquired through his citizenship, and the moment his citizenship rights were forfeited, that moment his property rights vanished. He never had any per se.

Mr. Humphrey: But the marriage being invalid his rights to citizenship were never forfeited.

Mr. Hastings: He never recognized it as an invalid marriage, but continued to live with the woman and treated her as his wife.

Mr. Humphrey: What he did or did not do neither makes nor unmakes the law. Under the law a party having a spouse still living from which said party has had no divorce, such a party cannot enter into a valid marriage.

Mr. Hastings: This man did all he could to validate the marriage, and recognized it as such, and therefore he is estopped now from saying it is invalid.

Mr. Humphrey: The law of estoppel has no application to this case. The marriage was not only voidable, but was absolutely void, and can be attacked either collaterally or directly anywhere and in any tribunal.

Mr. Hastings: The Cherokee Nation is not attacking this marriage, but simply recognizes the marriage. His testimony shows that it was entered into in good faith by this man, and that he forfeited his citizenship, and that if he lost his citizenship he cannot be heard now to complain.

Mr. Humphrey: The contention of the attorney for the Cherokee Nation is incorrect, being based upon the ground that the applicant herein really forfeited his citizenship, which was not the case.

Mr. Hastings: It makes no difference whether this marriage was a legal marriage or not, he took up this woman and lived with her, and held her out as his wife, and it was a common law marriage, and one that would forfeit his citizenship.

Mr. Humphrey: Which the applicant denies.

The Commission: The attorney for the applicant and the representative of the Cherokee Nation present submit this case, and the sameis ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 9th, 1902.

In the matter of the application of Abram Meek for the enrollment of himself as a citizen by intermarriage of the Cherokee nation and for the enrollment of his two children Myrtle E. Meek and Ethel R. Meek as citizens by blood of the Cherokee nation.

Appearances:

Applicant appears in person.
Cherokee nation by W. W. Hastings.

Supplemental to D-456.

ABRAM MEEK, being duly sworn, testified as follows:—
Examination by the Commission.

Q. What is your name? A. Abram Meek.
Q. What is your post office address? A. Vinita, Indian Territory.
Q. Are you an applicant before the Commission for enrollment as a citizen by intermarriage and for the enrollment of your children as citizens by blood of the Cherokee nation? A. Yes, sir.
Q. When did you come to the Cherokee nation the first time?
A. 1869.
Q. How long did you continue to reside there? A. From then until the present.
Q. Have you been residing in the Cherokee nation continuously since 1869? A. Yes, sir. That is I have been out a few times but I lived there; had my home there.
Q. How long and for what purpose were you out? A. I was out once into Oklahoma about four weeks.
Q. How long ago was that? A. That is about 10 years ago.
Q. When was the next time you were out? A. I have never been out only may be a day, I don't think a day at a time, may be across the state line into Kansas. My family wasn't with me in Oklahoma, just myself.
Q. Where were your children born? A. Born in the Cherokee nation.
Q. Have they ever been out of the Cherokee nation for the purpose of making a home since their birth? A. No, sir.
Q. Are they living here at the present time? A. Yes, sir
Q. Has your wife always live in the Cherokee nation since your marriage? A. My last wife?
Q. Yes. Lillie Meek. A. Yes, sir; she has never lived out any.
Q. When were you married to her? A. 1889, I believe.

This testimony will also be filed with and made a part of the record in Cherokee case #[illegible].

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 11 day of July, 1902.

Notary Public

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, September 30th, 1902.

In the matter of the application of Abram Meek for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his children Myrtle E. and Ethel R. Meek as citizens by blood of the Cherokee Nation.

Supplemental to D-456.

Appearances:

Applicant appears in person.
Cherokee Nation by J. C. Starr.

ABRAM MEEK, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Abram Meek.
Q. Got any middle name? A. No, sir.
Q. What is your age at this time? A. 51.
Q. What is your post office? A. Vinita.
Q. Are you the same Abram Meek who applied to this Commission for enrollment as an intermarried citizen on September 22nd, 1900?
A. Yes, sir.
Q. What was your wife's name; your Cherokee wife? A. Lillie. My first wife?
Q. I want your Cherokee wife first? A. Alta Barrilla.
Q. Was Atla Barrilla her maiden name? A. Alta B. Scrimp, was her maiden name.
Q. Was she your first wife? A. Yes, sir.
Q. Were you her first husband? A. Yes, sir.
Q. Neither one been married prior to your marriage to each other?
A. No, sir.
Q. When were you marriedto her? A. 1874.
Q. Is she living or dead? A. She is dead.
Q. When did she die? A. In 1885, I think.
Q. Were you married to her under a Cherokee license? A. Yes, sir.
Q. Have you filed it with the Commission--when you made the original application?
A. My attorney filed it. My license was destroyed when my house burned. He said he got a copy of it.
Q. Did you and she live together from the time of your marriage as husband and wife until her death? A. Yes, sir.
Q. You never was separated during her life time? A. No, sir.
Q. Since the death of your first wife have you married again?
A. Yes, sir.
Q. What is your second wife's name? A. Her name was Angeline Crowder.
Q. Was she a Cherokee or white woman? A. She claimed to be a Cherokee by blood.
Q. When were you married to her? A. Married in 1887.
Q. Is she living or dead? A. She is dead.
Q. When did she die? A. In 1887.
Q. Died shortly after you were married? A. Three weeks.
Q. What was her father's name? A. I don't know?
Q. Do you know what her mother's name was? A. I know what her mother's name was at that time. I don't know her maiden name. Her mother's name was Moore.
Q. Had your second wife been married before she married you?
A. Yes, sir.
Q. What was her husband's name? A. She first married a man by

the name of Parris. I don't know his given name.
Q. Then she married a man by the name of Crowder? A. Yes, sir.
Q. Was Parris dead? A. I don't know.
Q. Was Crowder dead? A. No, sir.
Q. Had she been divorced from Crowder? A. She said so.
Q. You don't know whether she was a recognized citizen of the Cherokee Nation or not, do you? A. I don't.
Q. Do you know what her maiden name was, second wife's maiden name? Before she was ever married? A. No, sir; I don't recollect that but I think it was Moore but I am not positive. Her mother's name was Moore at the time. I think that was her maiden name.
Q. After your second wife died did you marry again? A, Yes, sir .
Q. What was your third wife's name? A. Lillie Downing.
Q. Is she living? A. Yes, sir.
Q. When did you marry her? A. Married her in 1889.
Q. Had she ever been married prior to her marriage to you?
A. No, sir.
Q. You are her first husband? A. Yes, sir.
Q. She is your third wife, is she? A. Yes, sir.
Q. Have you and she lived together since your marriage in 1889 up to the present time? A. No, sir.
Q. Separated? A. Yes, sir.
Q. When did you separate? A. About 5 years ago.
Q. Have you procured a divorce from her? A. Yes, sir.
Q. Who applied for the divorce, your or she? A. She did.
Q. What court? A. Federal court of the Cherokee Nation at Vinita.
Q. Do you know what grounds she obtained the divorce on?
A. I got the divorce.
Q. I thought you said she applied? A. She applied and then I---
Q. You went in and fought it and got the divorce? A. Yes, sir.
Q. What grounds did you get the divorce on? A. On her conduct
Q. Where were you living when you separated? A. In Cooweescoowee on the head of Big creek.
Q. In the country on a farm? A. Yes, sir.
Q. When you separated who stayed on the place, you or her?
A. She left me on the place first and then I left the place and went to another place.
Q. Did she go back to the place you were both living one?
A. Yes, sir.
Q. Did you leave her in the first place? A. No, sir.
Q. She left you? A. Yes, sir.
Q. What did she do, just go without any cause? A. Not any cause that I know of.
Q. Never made any complaint to you about your treatment.
A. Yes, sir; she had made complaints. She left some six or xxx seven times before but stayed a week or two and come back. One time she stayed five or six months.
Q. But came back? A. Yes, sir.
Q. Did you make any appeal to her to come back and live with you?
A. Yes, sir.
Q. Wouldn't she come back? A. No, sir.
Q. Have you married any more since your marriage to your third wife? A. No, sir.
Q. Still a single man, are you? A. Yes, sir.
Q. Were you living as a single man on the first of September, 1902.
A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. I have lived in the Cherokee Nation since October, 1869.
Q. Never lived any where else since then? A. No, sir.
Q. Always lived in the Cherokee Nation since 1869 up to the present time? A. Yes, sir.
Q. Are these your children, Myrtle B. and Ethel R. A. Yes, sir.

Q. What is their mother's name? A. Her name now?
Q. No. A. Her name was Lillie Meek.
Q. These are your children by your last wife, are they?
A. Yes, sir.
Q. Are they living with you? A. Yes, sir. Their home is with me. The oldest one is at the Tahlequah school.
Q. They have always lived in the Cherokee Nation, have they?
A. Yes, sir.
Q. Never lived any where else? A. No, sir.

Examination by Mr. Starr.

Q. Where were you living when this last separation took place.
A. Living on the head of Big creek.
Q. Who were your neighbors? A. My nearest neighbor was a man by the name of Delp.
Q. Where did your wife go to? A. Edny, Kansas.
Q. Whose place did she go to? A. Her mother's.
Q. Her mother lived at Edny, Kansas, at that time?
A. Yes, sir.
Q. How long did she stay up there? A. The last time that she left me?
Q. Yes. A. About a month and a half.
Q. Then where did she go? A. She went back to the place. Same place where she left me.
Q. Were you living there when she came back? A. Yes, sir.
Q. Did she take possession of the place and control it?
A. Yes, sir.

Examination by the Commission.

Q. Mr. Meek, your second wife you say you don't know whether she was a citizen or not?
A. I don't know positively whether she was or not.
Q. Have you got any witnesses that knew her as a girl before she was ever married? A. I had her mother.
Q. Has her mother already testified in this case? A. Yes, sir; and her brother in law.
Q. They were people who identified her as a citizen by blood? A. I think so.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 14th day of October, 1902.

B. C. Jones
Notary Public.

Cherokee D-486.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Myrtle E. Meek and Ethel R. Meek as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 27, 1900, Abram Meek appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his minor children, Myrtle E. Meek and Ethel R. Meek, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 2, and October 21, 1900, and at Muskogee, Indian Territory, on February 27, July 8, and September 30, 1902. The application included other parties, but they are not embraced in this decision.

The evidence shows that the applicants herein are the children of Abram Meek, a white man, and his wife, Lillie Jones, a citizen by blood of the Cherokee Nation and identified on the Cherokee authenticated roll of 1880. Myrtle E. Meek is identified on the Cherokee strip payment roll of 1894; Ethel R. Meek is identified by a birth affidavit made a part of the record herein.

The evidence further shows that the said Myrtle E. and Ethel R. Meek were born and have always resided in the Cherokee Nation.

It is, therefore, the opinion of this Commission that Myrtle E. Meek and Ethel R. Meek should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JUN 1 - 1903

C.F.B.

Cherokee D. 456

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, IND. TER. JANUARY 5, 1907.

In the matter of the application for the enrollment of Abram Week as a citizen by intermarriage of the Cherokee Nation.

APPEARANCES: Applicant appears in person.

Abram Week, being first duly sworn by J. E. Tidwell, notary public, testified as follows:

Q. What is your name? A. Abram Week.
Q. What is your age? A. Fifty-five
Q. What is your postoffice address? A. Vinita.
Q. You claim the right to enrollment as a citizen by intermarriage of the Cherokee Nation, do you? A. Yes sir.
Q. You have no Cherokee blood? A. No sir.
Q. Your only claim to the right to enrollment as a citizen of the Cherokee Nation is by virtue of your marriage to a citizen of the Cherokee Nation? A. Yes sir.
Q. What is the name of the citizen through whom you claim that right? A. Her maiden name was Alta Berrilla Schrimsher.
Q. Is she living or dead? A. She is dead.
Q. When did you marry her? A. I married her on the 20th of January, 1874.
Q. Was she a recognized citizen of the Cherokee Nation at the time you married her? A. Yes sir.
Q. Living in the Cherokee country, was she? A. Yes sir.
Q. Did you marry her in accordance with the law of the Cherokee Nation? A. Yes sir.
Q. In what district did you secure your license? A. Delaware District.
Q. The license, then, was issued in Delaware District in 1874 was it? A. The license, I think, was issued in '73.
Q. Who married you? A. James Valentine.
Q. Who was James Valentine? A. He was the Missionary Minister
Q. When did your wife die? A. She died 1884.
Q. Did you and she continuously live together as husband and wife from the time of your marriage until the time of her death?
A. Yes sir.
Q. And lived in the Cherokee Nation, did you? A. Yes sir.
Q. Were you ever married prior to your marriage to her? A. No sir.
Q. Was she ever married before she married you? A. No sir.
Q. Since her death have you remarried? A. Yes sir.
Q. When did you marry your second wife? A. In '86.
Q. Is she living? A. No sir.
Q. What was her name? A. Her name was Angeline Crowder.
Q. She is dead is she? A. Yes sir.
Q. Was she a Cherokee by blood? A. Yes sir, she was a Cherokee by blood.
Q. What was the name of her father? A. I do not know.
Q. What was her mother's name? A. Her name was Nancy Moore.
Q. When did you say your second wife died? A. She died in '86.
Q. '86? A. Yes sir.
Q. You and she continuously lived together as husband and wife from the time of your marriage to her until the time of her death, did you? A. Yes sir.
Q. Have you married since the death of your second wife? A. Yes sir.

Q. Is the woman that you married subsequent to the death of your second wife, living at this time? A. Yes sir, she is living.
Q. What is her name? A. Her first name?
Q. Yes, her name now? A. Her name is Miller, now, Lillie Miller.
Q. What was her maiden name? A. Lillie Deney.
Q. When did you marry her? A. 1887.
Q. Is she a Cherokee by blood? A. Yes sir.
Q. On the final roll is she? A. Yes sir.
Q. Are you and she living together as husband and wife at the present time? A. No sir.
Q. When did you separate? A. Six or seven years ago, I think.
Q. You lived together from the time of your marriage until about seven years ago? A. Yes sir.
Q: What was the cause of the separation? A. I can't tell now. She just got up and left.
Q. She left you did she? A. Yes sir.
Q. Did you own a home at the time she left you? A. Yes sir.
Q. And you lived in your home after she left did you? A. Yes sir.
Q. Did she give you a reason for leaving you? A. No particular reason. I had got broke and she thought I couldn't make money enough to keep her up.
Q. She became dissatisfied, did she and left you? A. Yes sir.
Q. Did you give her any cause for leaving you? A. No sir.
Q. Did you want her to leave you? A. No sir.
Q. She left of her own free will then? A. Yes sir.
Q. What did you say her name is at the present time? A. Miller, Lillie Miller.
Q. Do you know where she resides? A. Yes sir, she lives on Big Creek, ten miles south of Edna, Kansas.
Q. You have some children by her who are on the final roll, have you not? A. Yes sir.
Q. Have you any documentary evidence showing your marriage to your first wife? A. I haven's any in my possession, only what I have filed with the Commission.
Q. Have you filed with the Commission a marriage license and certificate showing your marriage to your first wife? A. Yes sir, I deposited a marriage certificate, and my license had been burned. Afterwards I had my attorney get a duplicate eff of the clerk's book. He reported to me that he filed it with the Commisshon.

BY MR. H. M. VANCE:

Q. Did you live with your first wife from the time of your marriage in '74 continuously as husband and wife until the time of her death in '84? A. Yes sir.
Q. Have you and your former wife, who is now Lillie Miller, been divorced? A. Yes sir.
Q. Who applied for the divorce? A. She applied for it.
Q. On what grounds? A. I don't know that I can hardly say. She filed about four or five complaints, I think.
Q. She secured the divorce, did she? A. No sir, I secured the divorce.
Q. You say she applied for it? A. Yes sir she applied for it
Q. And the divorce was granted? A. Yes sir.
Q. In what court was the divorce granted? A. In the Federal Court at Vinita.

Q. Have you remarried since you and Lillie Miller were separated?
A. No sir.

ON BEHALF OF THE COMMISSIONER:

Q. Did you appear against your wife, Lillie Meek, when she applied for a divorce from you? A. Yes sir.
Q. What action did you take at that time. Did you attempt to prevent a divorce being granted? A. We did at the first time, my attorney did.
Q. What did you do after that? A. He filed an action against it. Then filed an action for the custody of the child.
Q. He filed an action on your behalf for a divorce from your wife, and for you to have the custody of the child? A. Yes sir.
Q. Was that granted by the court? A. Yes sir.
Q. Did you secure the custedy of the child? A. Yes sir.
Q. So your petition for a divorce was granted, and not hers?
A. It's pretty hard for me to answer that question as to how it was granted, because it was all carried on at one time in the court. The decision of the court, I recollect part of the time had her as plaintiff and me as defendant, and part of the time I was plaintiff and she was defendant, and so it's hard for me to tell that now. I filed that divorce with the Commission.
Q. That decree of divorce is on file at this office, is it?
A. Yes sir.

BY MR. W. M. VANCE:

Q. Do you mean to swear under oath that your first wife had not been formerly married to a man by the name of James Duncan?
A. Yes sir.
Q. She is not living with a man by the name of James Duncan as husband and wife? A. No sir.
Q. Did either of your wives ever live with James Duncan? A. Not to my knowledge.
Q. Did your wife have a sister by the name of Cynthia Ann?
A. No sir, She had three or four sisters.
Q. How old was Berrilla Schrimsher when you married her? A. She was eighteen.

ON BEHALF OF THE COMMISSIONER:

Q. Your residence has been ontinuously in the Cherokee Nation since your marriage to your first wife, has it? A. Yes sir.

The applicant, Abram Meek, is identified on the Cherokee authenticated tribal roll of 1880, Cooweescoowee District, No. 1797.

Mattie M. Pace, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she correctly reported the proceedings had in the above entitled cause, and that the same is a full, true and correct transcript of her stenographic notes thereof.

Mattie M. Pace

Subscribed and sworn to before me this January 6, 1907.

John E. Tidwell
Notary Public.

T.W.L. Cherokee D- 456

COPY.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Abram Meek as a citizen by intermarriage of the Cherokee Nation.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, September 27, 1900, application was received by the Commission to the Five Civilized Tribes for the enrollment of Abram Meek as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, October 2, 1900 and October 21, 1901; at Muskogee, Indian Territory, February 27, 1902, July 9, 1902, September 30, 1902 and January 5, 1907.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Abram Meek, a white man, was on January 20, 1874, in accordance with the tribal law of the Cherokee Nation, married to one Alta Barilla Meek, nee Shrimsher, since deceased, who was at the time of said marriage, a citizen by blood of the Cherokee Nation; that from the time of said marriage until the death of the said Alta Barilla Meek, which occurred in 1885 or 1886, the said Abram Meek and the said Alta Barilla Meek resided together as husband and wife and continuously lived together in the Cherokee Nation; that said applicant in 1886 married one Angeline Crowder, an alleged Cherokee, who had been married twice previous to said marriage; that one of her said husbands from whom she had not been divorced was living at the time of the marriage of the said Abram Meek and the said Angeline Crowder; that from the time of said marriage until the death of the said Angeline Crowder, which occurred about three weeks after her marriage to the said Abram Meek, the said Abram Meek and the said Angeline Crowder resided together as husband and wife and continuously lived in the Cherokee Nation.

In the matter of the application of Sarah Hines for enrollment as a citizen by intermarriage of the Cherokee Nation it was held by the Department that she did not, by reason of her marriage to one Joe Hines, an intermarried Cherokee applicant, while her Indian spouse was living, forfeit her right to enrollment (I.T.D. 4017- 1902).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That in 1889 said applicant was married to one Lillie Jones, nee Deney or Dennie, enrolled as Lillie Miller, her name being found opposite No. 9542 upon the approved partial roll of citizens by blood of the Cherokee Nation, with whom said applicant resided until said applicant was deserted by the said Lillie Miller; that on November 2, 1899, the said Abram Meek obtained a decree of divorce from the said Lillie Miller in the United States Court for the Northern Judicial District of Indian Territory; that since the separation of the said Abram Meek and the said Lillie Meek, the said Abram Meek has remained unmarried and has continuously resided in the Cherokee Nation since 1869. Said applicant is identified on the Cherokee authenticated tribal roll of 1880 and the Cherokee census roll of 1896 as a citizen by intermarriage of the Cherokee Nation. The said Alta Barilla Meck and the said Lillie Miller are identified upon the Cherokee tribal roll of 1880, Cooweescoowee District, the former at page 136, No. 1798 as Barilla Meck, and the latter at page 178, No. 2726, as Mattie Stringer, each as a native Cherokee.

IT IS THEREFORE ORDERED AND ADJUDGED: That in accordance with the decision of the Supreme Court of the United States dated November 5,1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, the said applicant Abram Meck, is entitled, under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495) to enrollment as a citizen by intermarriage of the Cherokee Nation, and his application for enrollment as such is accordingly granted.

SIGNED Tams Bixby.
Commissioner

Dated at Muskogee, Indian Territory,

this FEB 15 1907

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee M-456

Muskogee, Indian Territory, October 24, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:-

You are hereby advised that under date of October 11, 1902, the Secretary of the Interior returned the record of the proceedings, including the decision of the Commission to the Five Civilized Tribes, in the matter of the application of John M. Martin for the enrollment of his child, Clara F. Martin, as a citizen of the Cherokee Nation, for the purpose of taking additional testimony.

In accordance with said instructions, you are hereby advised that this case has been set down for further hearing at the office of the Commission to the Five Civilized Tribes, at Muskogee, Indian Territory, on Saturday, November 8, 1902.

Respectfully,

Acting Chairman.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-456.

Muskogee, Indian Territory, July 9, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application of Abram Meek for the enrollment of his two minor children, Myrtle E. and Ethel R. Meek, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteendays from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. H-19.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 456

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 15, 1907, granting the application for the enrollment of Abram Meek as a citizen by intermarriage of the Cherokee Nation.

Respectfully,

Commissioner.

Encl.H6
JMH

[illegible]

IN THE MATTER OF THE APPLICATION OF

Abram Meek et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

DH56

Nos 2 & 3 Transferred to Cherokee 10273

1 Original testimony Sep 27-1900.

2 Memo of application Sep 27-1900

3 Supplementary testimony Oct 2-1900

4 Receipt of attorney for applicant for copy of testimony. GRANTED Not

FEB 15 1907

8 Supplementary testimony Oct 21, 1901

9 Notice of final consideration 2/27/02

7 Copy of decree of divorce

10 Certified copy of marriage cert.

See Jacket 3632.

Marriage certf.

Cher D 457

Cher D 457

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 28th, 1900.

IN THE MATTER OF THE APPLICATION OF HARRY A. KELLY FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS.

The said Harry A. Kelly being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry A Kelly.
Q What is your age, Mr. Kelly? A Thirty-six.
Q What is your post office address? A Wiles, I.T.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, by adoption
Q For whom do you apply for enrollment? A My wife and myself and my children.
Q Are your father and mother noncitizens? A My father is a citizen by adoption.
Q Your mother is a citizen? A No, sir.
Q What is the name of your wife? A Laura E. Kelly.
Q What was her name before you married her? A Schrimsher.
Q Is she a Cherokee citizen by blood? A Yes, sir.
Q What is her age? A Thirty-two.
Q What degree of blood does she claim? A One-eighth.
Q When were you married to her? A In 1894.
Q Have you a certificate of marriage? A Yes, sir.
THE COMMISSIONER: The applicant presents a duly authenticated marriage license and certificate of marriage certifying that he was married to one Miss Laura Schrimsher, a Cherokee citizen by blood on the 17th day of December, 1894.
Q What was the name of your wife's father? A Lee Schrimshor.
Q Is he living? A No, sir.
Q What is the name of her mother? A Irene Schrimsher.
Q Is she living? A No, sir.
Q What are the names of your children? A She had one child of her former marriage named Charles Edward Schrimsher.
Q How old is he? A Fifteen.
Q What is the name of the next child? A Mary Irene Kelly.
Q How old is Mary I?
A Four years old.
Q What is the name of the next one? A That is all. My wife was married and her husband was sent to the penitentiary for bigamy, and she went back to her maiden name.

1880 Roll, page 170, No. 2535, Laura L? Schrimpsher, Cooweescoowee District.

1896 Roll, page 312, No. 579, Harry A. Kelly Cooweescoowee District.

1896 Roll, page 193, No. 2668, Laura Kelley, Cooweescoowee District.

1896 Roll, page 193, No. 2669, Mary Kelley, Cooweescoowee District.

1896 Roll, page 254, No. 4393, Edward Schrimsher, Cooweescoowee District.

Q Are these children all alive and living with you?
A Yes, sir.

Q What is the name of the father of Charles Schrimsher? A His name was James Pryor. He married my wife when his name was Darling; his right name was Pryor, though. He had a wife living.

Q Was your wife divorced from him? A She got a divorce when he went to the penitentiary of course.

Q Well, sending a man to the penitentiary don't divorce him; it is simply a cause for divorce.
A Well, she was divorced.

Q Have you any proof of that? A No, sir; I have not.

Q Well, you will have to have proof of that before you can be enrolled. Where was she divorced? A She was divorced at court when they tried him.

Q What court? A Fort Smith.

Q You will have to get a certified copy of the decree of divorce. You have got to establish the fact that your wife was a single woman. A I thought the court when a man was sent up for bigamy that divorced his last wife because he had another wife living.

THE COMMISSION: The name of Harry A. Kelly appears upon the census roll of 1896. He makes satisfactory proof of his marriage to one Laura Schrimsher, a citizen by blood, in the year [illegible]. The name of his wife Laura Schrimsher is found upon the authenticated roll of 1880. He avers that his wife has two children, Charles E. Schrimsher, by a former husband, whose name appears upon the census roll of 1896, and Mary I. Kelly, by her present husband. The applicant also avers that his wife was married formerly to one Pryor, and that the marriage was illegal, said Pryor having had a wife prior thereto, and having been tried in the court at Fort Smith for bigamy and found guilty. The name of his wife, Laura Schrimsher is also found upon the census roll of 1896, and satisfactory proof being made as to their residence and having been duly identified according to the page and number of the roll as indicated in the testimony, the said Laura Schrimsher and her children Charles E. Schrimsher and Mary I. Kelly will be duly listed for enrollment by this Commission as Cherokee citizens by blood. Final judgment as to the enrollment of Harry A Kelly as a citizen by intermarriage will be suspended, awaiting satisfactory proof of the divorce or illegality of the marriage of his wife to her former husband, Pryor or Darling.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 16th day of October 1900

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 5 1900

Chairman

Card D-457

Department of the Interior.

Commission to the Five Civilized Tribes.
Vinita, I. T. October 5, 1900.

Additional testimony in the case of Harry A. Kelley, he being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name ? A Harry A. Kelley.
Q You want to offer additional testimony to your former application? What's what you are here for? A Yes sir.

The applicant files an official document showing that James T. Pryor was convicted in the United States Court, May term, 1886, of bigamy, Court setting at Fort Smith, Ark. This is filed herewith.

Q This now relates to the marriage of your wife, the former marriage, to this man Pryor? A Yes sir.
Q And your point is that she needn't to get a divorce from him as it was n't a legal marriage, you want to show that? A Yes sir.
Q And she was at liberty to marry you? A Yes sir.
(This is filed with your case.)

Edward G. Rothenberger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings in the above case, and that the foregoing is a true and complete translation of his stenographic noted in said case.

E. G. Rothenberger

Subscribed and sworn to before me this 5th day of October, 1900.

Commissioner.

"R"

D 457

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Harry A. Kelley, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902, and that he could on said date appear before the Commission in person or by attorney, and an opportunity would be given him to introduce any further testimony affecting his application.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that the case be closed, and that the same be reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

R.
Cher D-457.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, June 26th, 1902.

In the matter of the application of Harry A. Kelly for the enrollment of himself, wife and children as citizens of the Cherokee nation.

Supplemental to Cherokee D 457.

Appearances:

Applicant appears in person.
Cherokee Nation by W. W. Hastings.

Harry A. Kelly, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. Harry A. Kelly.
Q. How do you spell your surname? A. K-e-l-l-y.
Q. What is your age, Mr/ Kelly? A. 39 years old.
Q. What is your post office? A. Centralia now. It was Miles when I enrolled.
Q. Do you claim the right to enroll as a citizen by intermarriage?
A. Yes, sir.
Q. When were you married? A. 1894.
Q. When did you come to the Cherokee nation the first time?
A. 15 years ago last spring.
Q. Where have you been residing since you came to the nation?
A. Residing in the Cherokee nation.
Q. Have you ever made your home out of the nation since your marriage? A. No, sir.
Q. How long did you know your wife prior to your marriage?
A. 8 years.
Q. Where was she residing? A. Cherokee nation.
Q. Has she ever been out of the Cherokee nation since you have known her? A. No, sir.
Q. Were your children born in the Cherokee nation? A. Yes, sir.
Q. Have your children always resided here? A. They have.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr.

Subscribed and sworn to before me this 7th day of July, 1902.

(Seal)

Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
NOV 13 1902

Cherokee D 457.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 16, 1902.

In the matter of the application of Harry A. Kelley for enrollment as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

HARRY KELLEY, being sworn, testified as follows:

By the Commission,

Q What is your name? A Harry Kelley.

Q How do you spell your name, Mr. Kelley? A KELLY.

Q It is not KELLEY? A It is spelled both ways.

Q Which is right? A My father and mother were both named Kelly, and one spelled one way and one the other. I was raised by my mother.

Q It is here on the roll E Y, do you want it that way? A Yes, sir.

Q How old are you? A Twenty-eight.

Q What is your postoffice? A Centralia; it was Miles when I enrolled.

Q You are a white man? A Yes, sir.

Q You are an applicant as a citizen by intermarriage? A Yes, sir

Q What is the name of your wife through whom you claim citizenship?
A Laura Schrimser.

Q Is she a Cherokee by blood? A Yes, sir.

Q Is she living? A Yes, sir.

Q How long has your wife been living in the Cherokee Nation?
A All her life.

Q When were you married to her? A '95.

Q In '95? A Yes, sir.

Q What time in '95? A December 16; 16th or 17th.

Q Well, it is very important to know. A 17th.

Q Were you married under a Cherokee marriage license? A Yes, sir

Q Is Laura your first wife? A Yes, sir.

Q Are you her first husband? A No, sir.

Q She had been married before, has she? A She thought she had.

Q She thought she had - well, hadn't she? A No, sir.

Q How many times had she been married? A Her husband was convicted of bigamy.

Q What was his name? A James Pryor.

Q You say he was convicted of bigamy? A Yes, sir.

Q When was that, do you remember? A I don't just know when; I was not here.

Q He had a living wife at the time he married Laura Schrimser?
A Yes, sir, sent to the penitentiary.

Q That was her only marriage prior to her marriage to you?
A Yes, sir.

Q Did you file a certificate of your marriage with the Commission, Mr. Kelley? A Yes, sir.

Q Are you sure it was December 17, 1895; '95, was it? A '94; I was thinking of that law that was passed in '95.

Q Have you and your wife been living together in the Cherokee Nation ever since your marriage? A Yes, sir.

Q Have you ever been separated? A No, sir.

Q You are living together at this time? A Yes, sir.

Q Have you made your home in the Cherokee Nation, and nowhere else, since '94? A Yes, sir.

Q Living in the Cherokee Nation now? A Yes, sir.

Q Have you got any children by your wife, Laura? A One.
Q Is it living? A It is.

By Mr. Starr,

Q Were you acquainted with this man, James Pryor? A I never saw him; it was before I came to this country that he was sent off.
Q How do you know he was sent off? A I sent to Fort Gibson and got proof of it and filed it with the Commission.

By the Commission,

Q You filed it with the Commission? A Yes, sir, at Vinita.
Q Is that at the time you made application for enrollment or before that? A A few days after; before they left there.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 10th day of November, 1902.

B C Jones
Notary Public.

MDG

COMMISSIONERS:
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

WM. O. BEALL,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:
Cherokee D -457.

Muskogee, Indian Territory, June 25, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory,

Dear Sir:

You are hereby advised that the Commission's decision, dated March 10, 1904, rejecting the application for the enrollment of Ellen Graves, as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on June 17, 1904.

Respectfully,

Chairman.

D 457

IN THE MATTER OF THE APPLICATION OF

Harry T. Killam

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1 Original testimony Sep 28 1900.
1 Memo of application Sep 28 1900.
1 Additional testimony. Oct 6 1900.
1 Order of Court.
2 Notice of final consideration 2/3/02

Order closing testimony 2/27/02

See jacket No 3634

Cher D 458

Cher D 458

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DEPARTMENT OF THE INTERIOR
MMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 16 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 28th, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN M. RIDENOUR FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said John M. Ridenour, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please.
A John M. Ridenour.
Q How old are you? A I am thirty-five.
Q What is your postoffice? A Chetopa, Kansas.
Q In what district do you live? A Delaware District, when I am at home.
Q Who is it you want to have put on the roll?
A Well, myself and wife and children.
Q How many children? A Two.
Q Do you apply for yourself as a Cherokee by blood?
A No, sir; my wife is a Shawnee. I am a white man.
Q Your wife, you say, is a Shawnee? A Yes, sir.
Q Have you your marriage license and certificate? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated marriage license issued by the Clerk of Delaware District December 23rd, 1889, authorizing his marriage to Miss Lizzie Garrett, a citizen of the Cherokee Nation, and the certificate shows that they were married in accordance with said license on the 25th day of the same month and year, Charles Bluejacket, officiating.

Q This Charles Bluejacket is a well recognized clergyman?
A Yes, sir; he was.
Q He does not mention here that he was a minister.
A Well, he was a minister.

THE COMMISSIONER: The paper hasbeen accepted and recorded by the Clerk, as shown by the endorsement. It is filed herewith.

Q Now, is your wife Lizzie Garrett still living? A Yes, sir.
Q Have you lived with her ever since you married her? A Yes, sir.
Q And in the Cherokee Nation all the time? A No, sir; not all the time. We was in Chetopa.
Q Give me your wife's name. A Elizabeth Ridenour.
Q How old is your wife? A She is about forty-seven years old. She was born in 1854.
Q Is she a native of the Cherokee Nation? A She is a Shawnee.
Q Was she born in the Cherokee Nation? A No, sir.
Q When did she first come to the Cherokee Nation? A
A In 1871.
Q When the Shawnees came? A Yes, sir.
Q Is she on the roll of 1880? A I couldn't say as to that.
Q How old did you say she was? A She is fifty-four--She was born in 1854, I mean.
Q She is forty-six, then? A Yes, sir.
Q Give me the names of your two children. A Charles Cravens Ridenour,

Q How old is that child? A He was seven years old the 16th of last March.

Q The next child? A Elmer Oliver Ridenour.

Q How old is that child? A He is five years old.

Q Both living now? A Yes, sir.

Q What was your wife's father's name? A Samuel Garrett.

Q What was her mother's name? Captain.

Q Samuel Garrett and Captain Garrett? A No, sir; I don't know what her mother's name was. Q

Q Well, say so then.

1896 Roll, page 587, No. 45, John M. Ridenour, Delaware District.

1896 Roll, page 611, No. 311, Elizabeth Ridenour, Delaware District.

1896 Roll, page 611, No. 312, Charles C. Ridenour, Delaware District.

1896 Roll, page 611, No. 313, Elma O. Ridenour, Delaware District.

Examination by Mr. Joel H. Baugh, representative of the Cherokee Nation.

Q Where did you live at after you were married? A In Delaware District.

Q Did you move out of there? When did you move away from Delaware District? A About 1895.

Q Where did you go then? A To Chetopa, Kansas.

Q Where have you lived then? A I am living there yet; that is, I am staying there.

Q You are living there yet? A I am there yet.

Q What are you following there? A Nothing at all.

Q You have no business there? A No, sir; I moved up there on account of my folks being sick when I went there; it was sickly where my place was and there wasn't no doctors down there and I moved up there to be close to the doctors, and now I am staying there for my children. My children is going to school.

Q What did you take with you up there? A My household goods. I have a place down here, out west of Miami.

Q Where was your wife in 1880? A I couldn't say where she was in 1880, whether it was here or not, but her first man, his name was William Boughman, I don't know whether he name is down like his or not.

Q Have you voted in the State or City elections in Kansas? A No, sir.

Q Do you own any property in Chetopa Kansas? A I own a little house where I live.

Q And you are making that your permanent home and residence? A No, sir; I am not. I am just staying there. I am down on my place half the time. I am backwards and forwards.

Q How much of a place have you got in the Nation? A About three hundred acres. It is about fifteen miles from Chetopa, and I am down there about half the time.

BY THE COMMISSIONER:

Q What other name did your wife ever have? A She married William Boughman and her name was Boughman then.

THE COMMISSIONER: The applicant applies for the enrollment of himself, wife and two children. They are identified on the roll of 1896. He claims that his wife is an adopted Shawnee. She is not identified on the roll of 1880. The applicant is shown to have married her in accordance with the Cherokee law in 1880, and states that they have lived together as husband and wife ever since. But, as shown in the testimony, the continuity of their residence in the Cherokee Nation, and the legality of their residence there at this time, is very doubtful, and they will be placed upon a doubtful card for further consideration.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. J. Willshea

Subscribed and sworn to before me this 16th day of October A. D. 1900.

Commissioner.

File with John H. Ridenour et al., Cherokee doubtful #458

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 23rd, 1901.

In the matter of the application of Frederick Garrett, Cherokee Card D-495. SUPPLEMENTAL TESTIONY ON THE PART OF THE APPLICANT.

Appearances:
J. L. Baugh for the Cherokee Nation
Mellette & Smith for the applicants.

FREDERICK GARRETT being first duly sworn by Com'r T. B. Needles, testifies as follows.

(By Mr. Smith) State your name? A Frederick Garrett.
Q Are you the applicant in this case? A Yes sir.
Q You have testified in the case before? A Yes sir.
Q Before the Commission when you made your application? A Yes sir.
Q Do you remember what year it was that you returned to the Cherokee Nation after your father took you out when you were a boy? A I think it was either '85 or '87.
Q To what place did you return? A To the old home place.
Q Did you have any property on that place at that time? A An interest in some cattle.
Q How many cattle? A 143 head.
Q What did you do with these cattle? A I have part of them yet.
Q Did you ever vote anywheres except in the Cherokee Nation? A No sir
Q Ever held office anywheres except in the Cherokee Nation? A No sir.
Q Ever sit on juries anywheres except in the Chefokee Nation? A No sir.
Q Have you ever voted in the Cherokee Nation? A Yes sir.
Q Ever have any permits issued to you by the Cherokee Nation? A Yes sir.
Q Where did you have the permits? A You mean where were they issued from?
Q Yes sir. A From the Clerk's office.
Q What clerk? A Mr Hastings was clerk when I got some of them.
Q What Hastings? A I dont know his first name.
Q Clerk of what district? A Delaware district.
Q Have you a brother named George Garrett? A Yes sir.
Q When did he come back to the Cherokee Nation after your father took him out? A I dont remember just when it was, he was here 2 or 3 years before I came.
Q He was here when you came? A Yes sir.
Q Have you a brother named Robert L.? A Yes sir.
Q When did he come back? A Same year I did, just before I did.
Q Have you a sister named Mary? A Yes sir.
Q When did she return? A When Robert did.
Q What you a sister named Elizabeth? A Yes sir.
Q When, did she return? A Same time the others did, just before I did.
Q Were your brothers Robert and George recognized in the same way that you were? A Yes sir, I think so, I never heard anything different.
Q I believe you stated in your original examination here that you had property here in the Cherokee Nation during the time you were out? A I had an undivided interest in the cattle was all.
Q Does your name appear on the Shawnee roll of 772 persons which was made out in accordance with the treaty of 1869? A I think it does.

BY MR. SMITH: If the Court please I would like to have the Shawnee rolls examined and that part thereof which mentions the name of this applicant, made a part of this record.

BY COM'R NEEDLES: Comes the applicant and presents the Register of the names of the members of the Shawnee Tribe of Indians who have moved to and located in the Cherokee Nation, Indian Territory (prior to the 10th day of June 1871) within two years from the 9th day of June 1869 in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians through their Delegations in Washington D. C., United States of America on the 7th day of June 1869 and approve by the President of the United States on the 9th day of June 1869 in accordance with the Fifteenth Article of the Cherokee treaty ~~of~~ with the United States proclaimed August the 11th 1866, and calls the attention of the Commission to the fact that on said rolls at #381 is found the name of Frederick Garrett. Said rolls being a printed list in the possession of the Cherokee Representatives and the said rolls being certified to by Lewis Downing Principal Chief of the Cherokee Nation and by Graham Rogers, Late Principal Chief of the Shawnee Tribe of Indians and by Charles Tucker, Late Ass't. Principal Chief of the Shawnee Tribe of Indians.

Applicant also calls the attention of the Commission to th fact that at numbers 377 is found the name of Samuel Garrett; at #378 is found the name of Richard Garrett; at #379 is found the name of Geo. Garrett; at #380 is found the name of Robert L. Garrett; and at #382 is found the name of Mary Garrett.

(By Smith of applicant)
Q What is the fact as to your sister Elizabeth Garrett, what is the fact as to her ~~returning~~ coming here with you originally ? A She came with my father and the rest of the family.
Q She came here with your father? A Yes sir and kept house for him at the time.
(By Mr. Baugh)
Q How old was you when you returned from Kansas to the Cherokee Nation after you had left here? A About 26 years old.
Q Did you go to the Cherokee National Council and ask to be re-admitted to citizenship? A No sir.

J. C. WILLIAMSON being first duly sworn [illegible] stand before Com'r T.B.Needles, testified as follow for applicant-
(By Smith)
Q What is your name? A J. C. Williamson.
Q Where do you live? A Bluejacket.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A I dont know that I am
Q You dont know? A (No answer)
Q How long have you lived in the Cherokee Nation? A Since September 1870.
Q What is your occupation? A Farming and stock raising.
Q Where did you come from to the Cherokee Nation? A Johnson County Kansas.
Q With whom did you come? A I came by myself but I had George W. Franklin's household goods and moving machine with me.
Q Is he a Shawnee citizen? A Yes sir.
Q Did you come as one? A No sir.
Q Did you marry a Shawnee citizen afterwards? A Yes sir.
Q Do you know this man Frederick Garrett? A Yes sir.
Q Do you know his father? A Yes sir.
Q What is his father's name? A Samuel.
Q Do you know his brothers and sisters? A Yes sir.
Q Can you name them? A Richard, Elizabeth, Fred, Robert, Mary and George.
Q Were they all the children of Samuel Garrett? A He claimed them to be his.
Q Did he bring them here with him when he came? A I didn't see them enroute but I saw them all on the Neosho river where he was living with his family.
Q When was that? A I am not positive if I saw them in '70 but I know

I saw them in '71, I know they were there in '71, and I think I saw them in '70; I stopped there in '71.
Q Did you know Samuel Garrett before he came to the Cherokee Nation?
A Yes sir.
Q What was he? A A farmer.
Q Was he a Shawnee? A Yes sir.
Q An adopted Shawnee? A Yes sir.
Q And he came here when the Shawnees came? A Yes sir.
Q Did you know Frederick Garrett who has just left the stand here?
A Yes sir.
Q Is he the same Frederick Garrett that you knew and who was brought here by his father and whose name is on the Shawnee rolls? A Yes sir
Q And these brothers and sisters that you have named, do you know them as the brothers and sisters of Frederick? A Yes sir, I knew them when they came here.
Q Do you know anything about where Samuel Garrett lived when he lived here in '70 or '71? A Yes sir.
Q Where? A On the Chetopa and Carrie Ferry road on Fox creek near Neosho river in Delaware district Cherokee Nation.
Q With his family? A Yes sir.
Q These are the same people that you stopped with in '70 or 71? A Yes sir.
Q Did he improve a place there? A Yes sir.
Q In what way? A Built a house, fenced it and broke out a farm .
Q How long did the old man Samuel Garrett live there before he left that place, as well as you recollect? A As well as I recollect he left there in the fall of '75 or '6.
Q Did he take Frederick back with him? A I think he took Frederick with him, he left two of the boys.
Q Which two did he leave? A I think Richard and George.
Q Do you know what disposition was made of the place when old man Garrett left there that time? A Yes sir.
Q What? A I rented the place.
Q How long did you have it rented? A I lived on the place as well as I remember about 18 months.
Q What property, if any, did these people leave upon that place? A He left somewhere about 80 head of cattle, cook stove and a bed and bead stead, I think some house furniture, some plows,
Q About 80 head of cattle, some household goods and some farming implements? A Yes sir.
Q Was the old man Samuel Garrett ever back on the place after you rented it from him? A He was there back on the place every few months I cant call how often.
Q He had property there? A Yes sir.
Q Do you know of his voting in the Cherokee Nation after he left the place and went to Johnson County Kansas? A Nothing more than that he stopped with me.
Q Voted? A Oh voted, yes sir.
Q In the Cherokee Nation? A Yes sir,
Q Do you know if he had property interests in Johnson county Kansas
A Yes sir I know he owned a farm there when I was there and he owned quite a tract of land near Montecello Kansas, I dont know now how much of a farm he did have there.
Q After he left this place, at the time he rented it to you, do you know of him voting anywhere else except in the Cherokee Nation? A No sir.
Q Do you know of his holding himself out as a citizen of anywheres else except in the Cherokee Nation? A No sir.
Q Do you know of his receiving permits in the Cherokee Nation after he rented that place to you? A Not direct.
Q Did he ever come back to live on the place after that? A Not that I know of.
Q Do you know when he died? A I know when he died but can't call the date now.
Q About how long ago? A Either in '90 or 91

Q Do you know this applicant Frederick Garrett? A Yes sir.
Q Do you remember when he came back to the Cherokee Nation? A I remember about his return, but I dont remember what year.
Q Do you know if some of this property you spoke of was on the place when Frederick got back? A I do not.
Q Were there any cattle on the place? A I think there was some cattle still on the place.
(By Baugh)
Q You say that you know old man Garrett voted in the Cherokee Nation? A He came down there and went into the polls, that was after he came down from Chetopa, after he had moved up there.
Q Who did he vote for? A I disremember now.
Q You dont know if he voted or not do you? A I dont know if he did, he went into vote, I was not an officer at the polls and dont know if he cast his vote.
Q How long ago has it been since he moved to Kansas? A You mean when he first left the Cherokee Nation?
Q Yes sir A Well as near as I can remember it was in about '75.
Q He lived continuously from that time until his death in Kansas? A Yes sir.
Q He never came back to the Cherokee Nation to live after that? A No sir not as I know of.

BY MR. BAUGH: I desire to offer in evidence a part of the Shawnee-Cherokee Agreement entered into between the duly authorized delegates representing the Cherokee Nation of Indians, and the duly authorized delegates representing the Shawnee tribe of Indians, and in order to make special reference to it will read a part of said agreement:

" That all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement. "

I desire to further call the attention of the Commission to Article 1., Section 2 of the Constitution of the Cherokee Nation .

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BY COM'R Needles: This will be filed in Cherokee Doubtful case D-495.

BY MR. SMITH: I desire this testimony also to be filed in the following cases: Cherokee D-458; Cherokee D-490; Cherokee D-856 and Cherokee D-1201.

BY COM'R NEEDLES: As requested by applicant's attorney copies of this testimony will be filed in the cases named.

* * * * * * * * *

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above caused and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 25th of October, 1901.

C. R. Breckinridge

Commisioner.

D458

"R"

D 458

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., March 1, 1902.

In the matter of the application of John M. Ridenour, for the enrollment of himself, wife and children, as citizens of the Cherokee Nation:

Appearances:
Mellette & Smith, Vinita, I. T., attorneys for applicants;
W. W. Hastings, for the Cherokee Nation.

The Commission: The applicant and his attorneys were notified by registered letter on February 14, 1902, that the application of John M. Ridenour for the enrollment of himself, wife and children as citizens of the Cherokee Nation, would be taken up by the Commission for final consideration at its offices in Muskogee, Indian Territory, on the 1st day of March, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day appears by his attorneys Mellette & Smith.

The Commission: Is there any statement you desire to make relative to the case Mr. Smith ?

Mr. Smith: Nothing at all. I desire to offer in evidence a permit issued to J. M. Ridenour.

Mr. Hastings: Objected to by the Cherokee Nation because the same is no proof of citizenship.

The Commission: The same is offered and filed with the record in the case.

Mr. Smith: Also a certified copy of a decree of divorce rendered in the Cherokee Court to Elizabeth Baughman.

The Commission: The decree offered in evidence will be filed.

FREDERICK GARRETT, being sworn and examined, testified as follows:

Examined by Mr. Smith:

Q What is your name ? A Frederick Garrett.
Q Your post office ? A Dawes.
Q Mr. Garrett, I don't remember whether the previous testimony in this case covers the point I want to ask you about. Do you know John Ridenour ? A Yes sir.
Q Do you know his wife Elizabeth ? A Yes sir.
Q What kin is she to you ? A A sister of mine.
Q Was she ever married before she married Ridenour ?
A Yes sir.
Q To whom ? A She was married, if I am not mistaken, in 1870.
Q To whom ? A William Baughfman.
Q Was that her first marriage ? A Yes sir.
Q Was she ever married more than twice ? A No sir.
Q Her second husband was Ridenour ? A Yes sir.
Q Is she the same person, or do you know of your own personal knowledge, who secured a divorce from her husband in the Cherokee courts ? A Yes sir, the identical person.

--The attorney for the applicant and the representative of the Cherokee Nation present submit this case, and the same is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states, that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this March 4, 1902.

M D Green

Commissioner.

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R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 27th, 1902.

In the matter of the application of John M. Ridenour for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife, Elizabeth Ridenour, and his children, Charles C. and Elmer O. Ridenour, as citizens of the Cherokee Nation of Shawnee blood.

Supplemental to D-458.

Applicant appears in person.
Cherokee Nation by J. C. Starr.

JOHN M. RIDENOUR, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name, please? A. J. M. Ridenour.
Q. How old are you? A. About 49.
Q. What is your post office? A. Chetopa, Kansas.
Q. Are you an applicant for enrollment as an intermarried citizen of the Cherokee Nation? A. Yes, sir.
Q. What is your wife's name? A. Elizabeth.
Q. Is she a citizen by blood of the Cherokee Nation? A. She is a Shawnee by blood.
Q. A Cherokee citizen by Shawnee blood? A. Yes, sir.
Q. When were you married to your wife Elizabeth? A. '89.
Q. Married under a Cherokee license? A. Yes, sir.
Q. Filed your license with the Commission? A. No, sir.
Q. Had you ever been married before? A. No, sir.
Q. Had she ever been married before? A. Yes, sir.
Q. How many times? A. Once.
Q. What is her first husband's name? A. Baughman.
Q. Was he living or dead when you were married? A. I don't know.
Q. Had they separated? A. Yes, sir.
Q. You don't know whether he was dead or not? A. I don't know.
Q. Was she ever divorced from him? A. Yes, sir.
Q. What court was she divorced in? A. In the Cherokee Nation.
Q. Have you filed a copy of that divorce? A. It was given to the lawyer.
Q. You are Elizabeth's second husband, are you? A. Yes, sir.
Q. She is your first wife? A. Yes, sir.
Q. Have you and she lived together from the date of your marriage up to the present time? A. Yes, sir.
Q. Never been separated? A. No, sir.
Q. Living together on the first of September, 1902, as husband and wife? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. Well, I have been here ever since about '76; '75 or '76.
Q. Have you lived in the Cherokee Nation all the time since 1880 up to the present time? A. No, sir.
Q. Where did you go? A. I went to Chetopa on account of my wife's health.
Q. When did you go to Chetopa? A. In '94.
Q. Have you been living in Chetopa, Kansas, since 1894?
A. She has been there; I have been on the place.
Q. She and the children have been living in Kansas since 1894?
A. Yes, sir; besides what they would be on the place.
Q. You moved your family to Chetopa in 1894? A. Yes, sir; on account of her health. There was no doctors close to our place and I thought it would be cheaper to go where the doctors was.

Q. How far is your farm from Chetopa? A. About 18 miles.

Q. After you moved your family to Chetopa where did you stay?

A. I stayed part of the time on the place and part over there.

Q. How much of the time did you stay on the place? A. Well, I didn't keep track; half the time, I should judge.

Q. Did you keep house or batch it on the mfarm? A. Sometimes; sometimes boarded.

Q. You had the farm rented out, most of it? A. Yes, sir.

Q. You simply went to see how the renters were getting along?

A. Yes, sir; and farmed a little myself.

Q. How much farming did you do? A. This year I had 30 acres of corn.

Q. Did you attend to it yourself or hire a man? A. Well, I put it in myself and had a boy to attend to it.

Q. You didn't stay there this year? A. I stayed there half the time.

Q. Well, now, what time in 1894 did you go to Chetopa?

A. October 1st.

Q. Then in 1895 did you make a crop down on the farm, yourself?

A. I put a crop in. I polwed the ground and put it in, then my wife was sick so I couldn't be there; then I went back to town.

Q. Your wife was confined to her bed, was she? A. Part of the time, yes.

Q. Then in 1896, did you make a crop yourself on the farm?

A. No, sir; '96 I didn't put in any crop.

Q. Rented the whole place? A. Yes, sir.

Q. In 1897 did you have a crop in yourself? A. No, sir.

Q. Rented the whole farm out in 1897? A. Yes, sir.

Q. In 1898, or four years after you went to Chetopa?

A. I am wrong, it was 1898 my folks was sick and I had to gige it up. That was the first year that I cropped.

Q. You put the crop in in the spring and turned it over to the renters? A. Yes, sir.

Q. And let them have it on shares? A. After I had the corn planted my folks was so I wouldn't be away from home.

Q. What time in 1898 did you turn the crop over to the renters?

A. In June.

Q. In 1899, 3 years ago, did you make a crop yourself? A. No, sir; I didn't make a crop myself.

Q. Rented the farm out? A. Yes, sir.

Q. Where were you? A. Part of the time in Chetopa; part of the time on the farm making improvements, building fences and keeping things up.

Q. 1900, two years ago, did you make a crop yourself? A. No, sir.

Q. Last year, did you make a crop? A. No, sir.

Q. This year you did make a crop? A. Yes, sir.

Q. How much of a farm have you got? A. I have got about 300 acres, broken land.

Q. Now, since you went to Chetopa in the fall of 1894, you yourself have only made two crops, that is this year and 1895?

A. 1897 instead of 1895.

Q. Your family has lived all the time in Chetopa, Kansas, since you went there in 1894? A. Most all the time.

Q. Haven't you had a house and furniture there all the time?

A. Not all of it.

Q. Not all of it; well, as a matter of fact your family never have moved back to the farm since 1894? A. Well, they haven't lived there, no. No, sir.

Q. You claim you took your family and went to Chetopa on account of your wife's health? A. Yes, sir.

Q. What is the only reason you went there? A. Yes, sir.

Q. That is the reason you have stayed there all the time?
A. Yes, sir. I have a certificate of the doctor to show.
Q. What is your wife's physical condition at the present time?
A. (no response)

Applicant offers in evidence a certificate signed by G. D. Boon, M. D., graduate of the University of Michigan in 1870, subscribed and sworn to before E. H. Brady, Notary Public, on October 25th, 1902.
The same is filed herewith.

Q. What you have said about yourself and wife, about residing on the farm and in Chetopa, is also true about your children Charles C. and Elmer O.? A. Yes, sir.
Q. These two children are living at this time? A. Yes, sir.
Q. Have they lived all their lives in the Cherokee Nation except what time you have stated you have been in Chetopa?
A. Only when they have been to Chetopa.
Q. Where was Elmer O. born? A. Chetopa.
Q. As matter of fact Elmer O. has never been in the Territory to live? A. No, sir.
Q. How long is the longest time you and your wife have been in the Territory since Elmer O. was born? A. About a week at a time.
Q. About a week at a time is the longest that child has been in the Territory since he was born? A. Yes, sir.
Q. Charles C. was born in the Territory before you went to Chetopa? A. Yes, sir.
Q. How old was Charles C. when you went to Chetopa? A. He was born in 1892; we went there in 1894.

Examination by Mr. Starr.
Q. How far is your farm from Chetopa? A. 18 miles.
Q. In which direction? A. Southeast.
Q. How far from Vinita? A. I should judge about 20 or 25 miles.
Q. It was about as handy for a doctor at Vinita as it was at Chetopa? A. Well, this doctor had been the family physician for a number of years.

* * *

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribeshe reportedthe above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 11th day of November, 1902.

B W Jones
Notary Public.

Cher
Supp'l to D 458

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., November 10, 1902.

In the matter of the application of JOHN M. RIDENOUR, for the enrollment of himself as a citizen by intermarriage, and his wife, ELIZABETH RIDENOUR, and his children CHARLES C. and ELMER O. RIDENOUR, as citizens of the Cherokee Nation, by Shawnee blood:

Appearances:
Mellette & Smith, of Vinita, for applicants;
W. W. Hastings, for the Cherokee Nation.

TESTIMONY FOR CHEROKEE NATION.

A. R. BELL, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings:

Q What is your name ? A A. R. Bell.
Q Where do you live ? A Chetopa, Kansas.
Q Are you a practicing attorney up there ? A Yes sir.
Q Do you keep house in Chetopa ? A Yes sir.
Q Do you know John M. Ridenour, the applicant ? A Yes sir.
Q How long have you known him ? A About 8 or 10 years.
Q Is he a man of family ? A Yes sir.
Q Has a wife and children ? A Yes sir.
Q How many children ? A About two.
Q How far does he live from you ? A About two blocks.
Q How long has heebeen keeping house there ?
A I should think about seven or eight years.
Q Was he keeping house there in the year 1898 ?
A I think so.
Q Keeping house there yet ? A Yes sir.
Q Has he been keeping house there continuously for the past seven or eight years ?

By Mr. Smith: The question is objected to as leading.

A Yes sir. I couldn't say whether he has been living in the house all the time, that is, staying there, but he has had the house.
Q Has his wife been living there ? A Yes sir. I think so; they have been away temporarily, but I think not permanently.
Q But that has been their home ?

By Mr. Smith: That question is objected to, because it calls for a conclusion, and requires the witness to testify to a legal conclusion. The question as to where applicant's home was and is, is purely a question of law, and it is incompetent to take the witnesses conclusion.

A I can't say.

Examined by Mr. Smith:

Q Mr. Bell, do you know whether Mr. Ridenour or his wife owned a farm in the Cherokee Nation ? A Not of my own knowledge.
Q Have you ever been in the Cherokee Nation on any place that was claimed by them ? A I have never been on the place; I have been in sight of a place said to be theirs'.

Q About how far from Chetopa ? A Well, I should say fifteen or sixteen miles.

Q How far is Chetopa, Kansas, from the line dividing the State of Kansas and the Indian Territory ?

A Two and a half miles.

Q Do you know Mrs. Ridenour ? A Yes sir.

Q What is her name ? A I think it is Elizabeth. I am not sure.

Q You don't know how many children they have ?

A I only know of two boys; they may have more, but that's all I know.

Q How long have you resided in Chetopa ? A Thirteen years.

Q Have you been there all the time ?

A Excepting when I was away on business.

Q Have you been away for any considerable length of time ?

A Not longer than a month at a time.

Q Have you been engaged in the practice of law ever since you have been there ? A Yes sir.

Q How old are these boys that you speak of ?

A Well, my judgment would be that the oldest one is about nine years old, and the younger one about seven.

Q That's just your impression; you don't know their ages ?

A No sir, I don't know their ages.

Q Are you intimate with the family; do you know Mrs. Ridenour well ? A No sir, I can't say that I am intimate with them; I know her well enough to speak to her when I see her.

Q Have you ever been to their house ? A Yes sir. Only once, though, I think.

Q Do you know anything about the condition of her health ?

A Why only by reputation; not personally. The reputation is that her health is quite poor, or was some years ago.

Q How many physicians have you at Chetopa ?

A I will have to count them; about seven or eight.

Q Do you happen to know of your own personal knowledge who her physicians are, if she has any ?

A I know by an incident that occurred recently, when one of the boys was sick.

Q I mean with her ? A No, I don't know who her physician is.

Q Do you go down into the Cherokee Nation very often ?

A Quite frequently.

Q Do you ever go down in this neighborhood that you speak of as being fifteen or sixteen miles from Chetopa ? A Yes sir.

Q You have never been on what is known as the Ridenour place ?

A No sir, I have been by it, but not on it.

Q Did you ever see him in the Cherokee Nation ? A Yes sir.

Q Where have you seen him ? A I think I have seen him on that place that I speak of. I saw him there once, I think.

Q Well, at times there there would be times that you would not see any member of the family there in Chetopa ?

A I think I saw the boys nearly every day, but I frequently would not see Mr. Ridenour or his wife for possibly weeks at a time. I think occasionally there would be weeks at a time I wouldn't see either of them.

Q Do you know where they were during these weeks that you would not see them there in Chetopa ? A No sir.

Q Did you ever see Mr. Ridenour or Mrs. Ridenour, when they were leaving to go down into the Cherokee Nation ? A No sir.

Q You stated that you didn't know what their home was, whether it was in the Cherokee Nation or Chetopa; well, now do you know of your own personal knowledge, whether, during this time you have spoken of, this family has been part of the time in the Cherokee Nation at their farm ? A I can't say whether they have or not

Q They could have done so with your knowing it ? A Yes sir.

M. M. FOWLER, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings:

Q What is your name ? A M. M. Fowler.
Q What is your post office ? A Chetopa, Kansas.

Q What is your age ? A Sixty seven.
Q Do you know John M. Ridenour ? A Yes sir.
Q How long have you known him ? A Well, 6 or 8 years.
Q Do you know his wife ? A Yes sir.
Q Has he some children ? A Yes sir.
Q Where are they living ? A They live in Chetopa.
Q Keeping house there ? A Well, I think she does. He's there part of the time.
Q How long have they been keeping house in Chetopa, Kansas ?
A It can't be less than three years.
Q And what do you say about seven years ?

Mr. Smith: I object to that, if the court please. He has already stated the time.

A Well, I don't know.
Q What is your best judgment as to how long they have been there ?
A Something over three years.
Q Has he been there seven ? A No sir, I don't think he has.
Q Has he been there six ? A I don't think so.

Mr. Smith: I object to that for the same reason.

Q Has he been living there five years ?

Mr. Smith: I object to that for the same reason.

A I will say five, and maybe longer.
Q Then you are not positive how long he has been there ?
A No sir, he lives in a different part of the town to what I do; but I see him frequently.
Q You don't know just when he moved there ? A No sir.
Q But he is living there now ? A Yes sir.

Examined by Mr. Smith:

Q They have got a farm down in the Cherokee Nation haven't they ?
A Yes sir, I think they have.
Q How far from Chetopa ? A Fifteen or sixteen miles.
Q They live there part of the year ? A When I first knew him they did.
Q You say they live in a different part of the town to what you do ? A Yes sir.
Q There would be many times there that you wouldn't see Mr. Ridenour or Mrs. Ridenour there for quite a while ? A How is that?
Q There would be many times that you wouldn't see Mr. Ridenour or Mrs. Ridenour in Chetopa for quite a while ? A Yes sir.
Q Where were they, if you know of your own knowledge, at these times ? A I don't know; I suppose they were down on the farm. I don't know.

Mr. Hastings: Well don't be telling him that.

Q Mr. Fowler, did you ever see Mr. Ridenour down on his farm ?
A I don't think I ever did. I never seen his farm but once. I was at his farm once.

Q When was that ?
A It must be three or four or five years ago.
Q Were you intimate with the family; did you ever go and visit them and their house ? A No sir.
Q You did not ? A No sir. I knowed them on the street, I believe I have met them.
Q Do you know where they were in June, 1898 ?
A No sir, I don't know positive. I believe they lived there, but I aint positive.
Q You don't know for certain where they lived in June, 1898 ?
A No sir. I think they lived there, but I aint positive.

J. H. DUNN, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings:

Q Your name is J. H. Dunn ? A Yes sir.
Q Your post office is Chetopa, Kansas ? A Yes sir.
Q Do you know the applicant John M. Ridenour ? A Yes sir.
Q Has he a family ? A Yes sir.
Q A wife ? A Yes sir. I just x know that from hearing people say that that woman is his wife.
Q You know it by neighborhood reputation ? A Yes sir.
Q Do you know where he is keeping house ?
A Yes sir, I know where he lives.
Q Where ? A He lives on what we call third street.
Q Where ? A In Chetopa.
Q In Kansas ? A Yes sir.
Q How long has he been living there ?
A Well, my recollection is, along about five years. That's my recollection.
Q That's your best judgment is it ? A That's my best judgment.
Q How far do you live from him ?
A I live not quite half a mile.
Q Is he living there now ? A Yes sir.

Examined by Mr. Smith:

Q Have you ever been to his house ? A No sir, I x have never been in his house since he has been living there.
Q Have you lived there all the while during these last five years ?
A Yes sir.
Q Have you ever been away for any length of time ?
A Well, not longer than a couple of weeks at a time.
Q Mr. and Mrs. Ridenour have a farm down in the Cherokee Nation haven't they ? A Yes sir.
Q About how far ? A Why, I understand that it is down there about ten or twelve miles.

By Mr. Hastings: Have you ever been there ? A No sir.
Q Well then, that's just hear-say ? A Yes sir, I have heard people talk about it, that's all.

By Mr. Smith:

Q You have just heard people talk about where he lives at Chetopa, you have never been in his house ? A No sir, not since he has been living there.
Q How often would you see either Mr. or Mrs. Ridenour during these five years ?

A Well, sometimes I wouldn't see Mr. Ridenour for a month or two.
Q Sometimes you wouldn't see Mr. Ridenour for a month or two ?
A Yes sir.
Q And sometimes longer ? A Well, it might be longer.
Q How about his wife, sometimes you wouldn't see her for how long ?
A Well, I never seen his wife much; only seen her passing in her rig. I have met them, I think a few times, I think, going to the nation together.
Q To the Cherokee Nation ? A Yes sir.
Q What would they be in ? A Well, in a spring wagon sometimes.
Q Sometimes in a road wagon ? A Yes sir.
Q How was it loaded ? A Well, I don't know if they had some things in the wagon or not, just passing on the road I wouldn't take much notice.
Q Would they have the wagon loaded with provisions or anything of that sort ? A I can't say about that.
Q You don't remember ? A No sir.
Q You can't say that they did not live part of the time during these five years, in the Cherokee Nation ?
A No sir, I can't say.
Q You can't say that ? A No sir.
Q Do you know what was on this farm that you speak of ?
A No sir, I was never there.
Q Do you know where they were in June, 1898 ? A No sir.

FRED DUNCAN, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Q Your name is Fred Duncan ? A Yes sir.
Q What is your age ? A Twenty eight past.
Q What is your post office ? A Chetopa, Kansas.
Q Do you live on the Cherokee side ? A Yes sir.
Q Do you know John M. Ridenour ? A Yes sir.
Q How long have you known him ?
A I have known him for about eight years.
Q Do you know his wife ? A Just when I see her, I am not personally acquainted with her.
Q Has he some children ? A Yes sir.
Q Where are they living ? A At the present time at Chetopa.
Q How long have they been living there ?
A Why to my best recollection they have been living there about six or seven years.

Examined by Mr. Smith:

Q Are you a Cherokee by blood ? A Supposed to be.
Q Where do you live ? A I live in the Cherokee Nation.
Q How long have you lived there ? A All my life.
Q How do you know so much about Chetopa ? A That's my post office
Q How far is it from the Cherokee line ?
A Two miles and a quarter.
Q You have never lived in Chetopa ? A I never did, sir.
Q Do you know where Ridenour's wife lived in Chetopa ?
A I know where the Ridenour family lived in Chetopa, yes sir.
Q Where is it ? A On the street that I go into Chetopa on.
Q What street is it you go in on ? A On a country street, it has a name but I don't know it .
Q What kind of a house do they live in ?
A They live in a brick house.
Q A two story brick house ? A No sir.

Q One story ? A Yes sir.

Q How do you know Ridenour lives there ? A I have hauled hay to them, me and my father.

Q Who received the hay ? A Mr. Ridenour.

Q Have you ever been down to Mr. Ridenour's place in the Cherokee Nation ? A Yes sir.

Q When ? A I was at Mr. Ridenour's farm, as well as I can recollect, I passed through his yard last January.

Q Was that the first time you had ever been there ?

A No sir.

Q When were you there before ? A I never was there. I have passed through on the old road that run by there.

Q You have been around and by there a number of times ?

A Well, yes sir, I can say a couple of times.

Q Only a couple of times ? A So far as I know.

Q In your life ? A Probably I have passed there when I was quite small, but I have no recollection of it, before the house he has there now was built.

Q What kind of a house has he there now ?

A A two story house painted white.

Q Has he any stock there ? A I can't say whether he has any there that belongs to himself.

Q Have his family ? A I can't swear that they have stock there.

Q What is in the house, do you know ?

A No sir, I don't know.

Q Do you know whose property and furniture is in that house ?

A Not at the present time; no sir, I don't.

Q Well now, you go to Chetopa about how often within the last three or four years. Four years say ?

A Three years ago from now I wasn't in this country.

Q Three years ago you were not here ? A No sir.

Q Where were you ? A In the Phillipine Islands.

Q Where were you in 1898 ? A I was living near Chetopa.

Q Where were you in 1899 ? A I lived and stayed--I boarded at my brother's-in-law, up to the $ 4th of July, 1899, and I left and went to Galena and joined the United States Army.

Q That was the 4th of July, 1899 ? A Yes sir.

Q When did you come back ?

A I came to Chetopa on the 26th day of January, 1901.

Q Then how do you know these people lived at Chetopa all this time ?

A I can't say that they lived there during my absence. They were living there when I left, and were living there when I come back.

Q Didn't you state that they have been living there for the last six or seven years ? A To my best knowledge, yes sir.

Q It's not what you have heard but what you knew that we want. If I hadn't asked you about the time you were out, we wouldn't have known anything about your being gone would we ? A No sir.

Q And then, you don't know that they have been there all the time ? So there's one and a half or two years that you don't know anything at all about where they lived ? A Yes sir.

Q How often would you see them when you would go to Chetopa ?

A I would probably see them almost every time I would go to Chetopa, that is Mr. Ridenour.

Q You would ? A Yes sir.

Q How often would you go ? A Well, that's a hard question for me to answer.

Q Well, about how often ? A I will say once a week.

Q And you don't think you ever went there a week that you didn't see Mr. Ridenour ? A Yes, I might one time and not seen him.

Q But you couldn't have gone two weeks without seeing him ?

A Well, yes sir. I could.

Q Well did you ? A Not that I know of.

Q You think you didn't miss seeing him for any two weeks that you went there ? A Well, I don't know.
Q Is that your best judgment ? A Yes sir.

The Commission: This case is continued by agreement until December 2, 1902.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 11, 1902.

B C Jones
Notary Public.

Cher
Supp'l to D 458

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., December 2, 1902.

In the matter of the application of JOHN M. RIDENOUR, for the enrollment of himself, his wife ELIZABETH RINDENOUR, and his children, CHARLES C. and ELMER O. RIDENOUR, as citizens of the Cherokee Nation, of Shawnee blood:

Appearances:
Applicants appear by W. M. Mellette, Esq;
Cherokee Nation, by W. W. Hastings, Esq.

G. D. BOONE, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. M. Mellette:

Q What is your name ? A G. D. Boone.
Q What is your occupation ? A Physician and surgeon.
Q Do you know John M. Ridenour ? A I do.
Q Do you know his wife and family ? A I do.
Q Where have you known them ? A I have known them in the Territory and I have known them in Chetopa.
Q Do you know about when the family of John M. Ridenour came to Chetopa to live ? A They came in 1894.
Q Do you know the cause of their coming to Chetopa ?
A Well, yes I think I do. I had been their family physician before that, and Mrs. Ridenour got down with chronic malaria, and I told them if they didn't move her out of there she would die. I told them they had better move x up to Chetopa where I could attend to her and it wouldn't cost them so much.
Q During that time where has Mr. Ridenour been ?
A He always had his home in the Nation; he always called it his home. They lived though in town; that is, his family stayed there.
Q Where was his business ? A In the Territory.
Q What was he doing ? A Farming.
Q Do you know where his farm is ? A Yes sir. I have met him on the road coming and going to the farm I reckon I have met him there a hundred times. Then I had to send after him two different times when his family took sick and became dangerous, and we had to send to the farm for him.
Q Did he have any business in Chetopa ? A No sir.
Q Did he vote in Chetopa ? A No sir.
Q Do you live in the ward he lives in ? A Yes sir.
Q You know he never voted ? A Yes sir, I know he never voted.
Q Do you know why he didn't vote ? A He said he wasn't a citizen there, said he was a citizen of the Cherokee Nation. I have heard the boys try to get him to register and vote, and he said "No, I am not a citizen here".
Q Did he have any children ? A Yes sir.
Q Did they attend the schools there ? A Yes sir.

Examined by Mr. Hastings:

Q His wife had malaria ? A Yes sir.
Q Chronic ? A Yes sir.
Q It was dangerous for them to live out on the prairie ?
A It was on their place.
Q Isn't it on the prarie at Chetopa ? A Yes sir, but is in a state of cultivation.
Q Has she been in bed all the time ? A No sir, but many days she would be. I have doctored her off and on since they

have been living there. There hasn't been a month that I haven't given her mdeicine.
Q They went there in 1894, and have been there ever since ?
A Yes sir.
Q They had a child born in 1895, didn't they ? A Yes sir.
Q Was he health in such a condition that she couldn't give birth to children ? A No sir, it's pretty hard for them to get that way.
Q Has she had any children born since then; since 1895 ?
A I don't know whether this one was born in 1895 or not; the youngest one died two years ago.
Q Since then ? They had one since then ? A Yes sir.
Q Just one ? A That's all.

SARAH E. ALLEN, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A Sarah E. Allen.
Q Where do you live Mrs. Allen ? A Miami.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Do you know John M. Ridenour and family ? A Yes sir.
Q How close do you live to his place in the Cherokee Nation ?
A About a mile and a half.
Q What do you know as to where he has been, in regard to that place, during the last six or eight years ?
A Why he puts in the most of his time on his farm there in the Cherokee Nation.
Q Where does his wife reside ? A She lives in Chetopa.
Q When would she come there ? A They come there after vacation, and during holidays, and whenever any of them are sick they come out there to recruit up.
Q What does he do at the place ? A He's been farming and attending to his grain and oats, and all such things as that every year, and had orchards.
Q Has he stock on the place ? A Yes sir.
Q Always had ? A Yes sir.
Q He keeps stock out there all the time ?
Q All the time his family have been in Chetopa he has done that ?
A Yes sir.
Q Would he farm on the place himself ?
A He farmed this year. He has had a tenant on the farm until this year.
Q Do you know whether or not he has furniture on the place ?
A He reserves two rooms in the house all furnished. He has been ever since he left the Nation.

By Mr. Hastings:

Q And when did his family move to Chetopa ? A I can't tell you exactly, about six or seven or eight years.
Q They have kept house in Chetopa ever since ? A Yes sir.
Q His wife has lived there all the time ? A Yes sir.
Q He has lived there and went back and forth to the farm ?
A Yes sir.

MARY L. CRAIG, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette

Q What is your name ? A Lizzie Craig. Mary Lizzie.
Q Is it Mary L. Craig ? A Yes sir.
Q Where do you live ? A I live in the Cherokee county, down there near Mr. Ridenour's place, on his brother's place.
Q How close do you live to the Ridenour home in the Cherokee Nation ? A Well, about one hundred or two hundred steps, I don't know just how far.
Q Now Mrs. Craig what do you know about where Ridenour's home has been since his family has been in Chetopa ? A Since I have known him, about five years in March, he has tended a crop there every year. There's never been many months there that he hasn't been there.
Q What about keeping rooms at his house ?
A He has always reserved two rooms.
Q For his use ? A Yes sir. And he has had things in it. That's been all the time, since I knew him.
Q What about his wife and children, would they come down ?
A Yes sir, she and the children would come down and stay three or four weeks at a time, until they would get sick and have to go and see a doctor.
Q What about stock ? A Well sir, he has always had hogs, and horses and stock on the place ever since we have been there.
Q That's been five years ? A Yes sir.
Q Since you first knew him ? A Yes sir.

Examined by Mr. Hastings:

Q Where was he living when you first knew him five years ago this coming March ? In March, 1898 ?
A He was living in Chetopa.
Q Keeping house there ? A Yes sir.
Q He and his family ? A Yes sir.
Q Do you know whether they owned the house they lived in or not ?
A I do not; I reckon they do.
Q Do they live in the same house yet ? A Yes sir.
Q And they have all the time since you have known them ?
A Yes sir.
Q That is in Chetopa, Kansas ? A Yes sir.

Examined by Mr. Mellette:

Q His family have been there ever since you first knew him have they not ? At Chetopa ? A Yes sir always been there so far as I know, off and on.
Q When you first knew him, where did you first meet him ?
A I met him at his home.
Q Where ? A Down in the Nation.
Q Was he staying around there, and his wife at Chetopa, the same as he has always been ? A Yes sir.
Q When you first met him he was there at his place in the Cherokee Nation ? A Yes sir. He has had different renters there, but he was always there.
Q When you say he was living in Chetopa when you first knew him, you mean that his family was there, and he was back and forth ?
A Yes sir.

By Mr. Hastings:

Q Was his family there when you saw him the first time in March, 1898, was his family up in Chetopa then ? A I don't recollect.

Q You don't remember seeing his family ? A No sir.

M. M. CRAIG, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A M. M. Craig.
Q Where do you live ? A I live about four miles west of Miami, in the Cherokee Nation.
Q Do you know John M. Ridenour ? A Yes sir.
Q Where has he been staying during the last five or six years ?
A Well, he's been staying at Miami and in the Cherokee Nation. He has got a farm there.
Q Where is his family ? A There part of the time and at Chetopa.
Q What do you know as to his keeping rooms there at his place in the Cherokee Nation ? A Yes sir, he has a house there, and he has had a tenant since I have been there, and he has used part of the house reserved for him and his family.
Q Furnished ? A Yes sir, some furniture in it.
Q What about stock ? A Well, he had stock there when I went there, and he has stock there yet; implements, tools and so on.
Q When did you go there ? A I went there five years ago.
Q What does he do about the place ?
A He has been farming there. He has built two small houses since I have been there, and keeps up the fence, and farms some; and cut some hay.

Examined by Mr. Hastings:

Q Where was his family when you went there five years ago ?
A Mr. Ridenour's family was at Chetopa.
Q Was you ever at his house in Chetopa ? A Yes sir.
Q Are they living at the same place yet ? A Yes sir.
Q Are they living at the same place yet ? A Yes sir.
Q And they have been all the time from that time till the present.
A They have been at the farm and at Chetopa.
Q They never have given up their residence ? A I think not..
Q They have lived in the same house in Chetopa ? A I think so.
Q They have never moved their furniture out ? A I don't know.
Q Did they ever move a single piece ? A I think they moved some things to the place and back again.
Q When ? A In the last five years.
Q What did you ever see them haul to the place and back ?
A I think they hauled a bed-stead back and forth.
Q When ? A Well, I think probably two years ago or three years ago Mr. Ridenour had a man down there named Houston, and I think he fetched a bed down there then, if I am not mistaken. And then he took it back in a short time.
Q He took it back in a short time ?
A Why yes, I think he took it back in the fall.

ELIZABETH RIDENOUR, called as a witness, being duly sworn, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A Elizabeth Ridenour.
Q Are you the wife of John M. Ridenour ? A Yes sir.
Q What is your blood ? A Shawnee.
Q When did you move to the Cherokee Nation ? A In 1870.
Q When did you move there in relation to the time the Shawnees came to the Cherokee Nation ? Did you come when the Shawnees came ?
A Yes sir.
Q Were you a registered Shawnee ? A Yes sir.
Q What was your name at the time you came to the Cherokee Nation ?
A When I first came my name was Garrett. My maiden name was Garrett.
Q Who did you marry first ? A William Boughman.
Q You came to the Cherokee Nation as Elizabeth Boughman then ?
A No sir, we came in October, and my name was Garrett, and I married Boughman then.
Q Your husband's name was what ? A William Boughman.
Q Your name was Elizabeth Boughman after you married him ?
A Yes sir.

Mr. Mellette: I want to submit the roll of registered Shawnees and # 774, shows the name of Elizabeth Baughman.

The Commission: It appears from the list of Shawnees offered in evidence that the name of the said Elizabeth Baughman appears opposite # 174 on the roll of Shawnees who came to the Cherokee Nation prior to the 10th day of June, 1871, within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation. It further appears that the name of William Baughman appears opposite # 173, of said register of Shawnees.

By Mr. Mellette:

Q Mrs. Ridenour, were you divorced from your husband William Baughman ? A Yes sir.
Q In the Cherokee courts ? A Yes sir.
Q What district, do you know ? A No , I have forgot.

Mr. Mellette: I want to introduce the record of the Circuit Court of Delaware District, Cherokee Nation, showing the divorce of Elizabeth Baughman from William Baughman.

The Commission: The same will be filed and made a part of the record herein.

Witness examined by Mr. Hastings:

Q Where were you married to John M. Ridenour ?
A We was married at Uncle Charlie Bluejacket's on Cabin Creek.

By Mr. Mellette:

Q Did you have a Cherokee license at the time you were married to your husband ? A Yes sir.
Q Do you know where it is ? A No, I can't say where it is.
Q Do you know whether it is filed with the Commission or not ?
A I don't know that either.

EDWARD LANE, being duly sworn and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A Edward Lane.
Q Where do you live ? A On Russell creek.
Q Are you a citizen of the Cherokee Nation ? A I think so.
Q Are you a recognized citizen ? A Yes sir.
Q Do you know John M. Ridenour ? A Yes sir.
Q Do you know where he has voted within the last six or eight years ? A Well, I knew of him voting twice at Timberlain precinct.
Q In what Nation ? A Cherokee Nation.
Q Ina Cherokee election ? A Yes sir.
Q How do you know of his voting ? A I was judge one time, and clerk another.
Q About when was that ? A It's been, I can't just tell exactly when, I haven't taxed my memory on it.
Q About when ? A Well, within the last four or five years. I think he voted for Mr. Buffington the last time he run for Chief.
Q Was his vote challenged at the time, or anything of that sort ?
A No sir.

Examined by Mr. Hastings:

Q Where did he live at that time ? A Over in Kansas.
Q How long had he been living in Kansas ?
A I can't positively state; some years though.
Q Six or eight years ? A I should say six years.

By Mr. Mellette:

Q Did he own a place in the Cherokee Nation at that time ?
A So I understood; I never have been on the place.

JOHN M. RIDENOUR, the applicant, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A John M. Ridenour.
Q Are you the claimant in this case ? A Yes sir.
Q Mr. Ridenour did you ever vote in the State of Kansas ?
A No sir.
Q Why not ? A Because I didn't claim I was a citizen there. I voted always down here.
Q When your family was up in Kansas where was your home, where did you regard as home ? A Down on the place in the Cherokee Nation.
Q Have you voted in the Cherokee Nation since your family have been in Chetopa ? A Yes sir.
Q How often ? A I voted two or three different times. Two different times that I know of, and maybe three.
Q You say you never voted in Kansas ? A No sir.
Q Why ? A I don't regard that I was a citizen of Kansas.

Examined by Mr. Hastings:

Q How long has your family been residing up there in the State of Kansas ? A We first moved there in 1894.

Examined by Mr. Mellette:

Q You have kept your home and things in the Cherokee Nation during that time ? A Yes sir.
Q Where is your stock ? A Down on the place.
Q Has it ever been in Chetopa ? A No sir, only what I have in the team going backwards and forwards.
Q What time would you spend down in the Cherokee Nation on your place ? A Sometimes I would be there three or four weeks at a time.
Q What doing ? A Farming, working and improving it.
Q Did you reserve any rooms in your place when you rented it ?
A Yes sir.
Q How long did you rent it at a time ?
A Only one year at a time.

AMOS SMITH, called as a witness, being duly sworn by the Commission, and sworn, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A Amos Smith.
Q Where do you reside ? A In the Cherokee Nation.
Q Do you know John M. Ridenour? A Yes sir.
Q Where has he been staying during the time his family were up at Chetopa, during the last six or eight years ?
A A good deal of his time on his farm.
Q How do you know he was there ? A Because I have seen him there. I have seen him there in passing.
Q What he be doing there ? A Working, making a garden, cultivating a crop and threashing wheat.
Q What years has he been doing that ?
A In 1897 I threshed some wheat for him, individual wheat. In 1898 I threshed another crop on his place for him and one of his renters, and in 1900, I threshed a crop there, and in 1901 I threshed a crop on his place.
Q Of his individually ? A No sir. But he was always there to take care of it himself.
Q What about cultivating grain and things of that kind ?
A He cultivated corn this last season.
Q What about stock ? A He always had stock there.
Q How long have you known him ?
A About twenty five years.
Q Have you lived up there that long ? A Yes sir.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q During the time his family has been in Chetopa where did he regard his home, if you know ? A I can't say sir whether he regarded his home in Chetopa or in the Cherokee Nation, his family was in Chetopa though.
Q Do you know of his attending to any other business except farming business in the Cherokee Nation ? A No sir, I don't know that he ever had any other business.
Q Except running his farm ? A Yes sir, that's all I know of.
Q Do you know anything about whether he reserved any rooms on his place for himself ? A I threshed there once in 1898, and I stayed up stairs, and I saw a lot of furniture up there, and I asked the family there whose furniture that was, and they said it was Jack's.
Q Did they mean Ridenour ? A Yes sir, we always call him Jack.

Examined by Mr. Hastings:

Q How long has he and his family been living in Chetopa ?
A Since about 1892 or 3.
Q They have lived there all the time and he has gone backwards and forwards to look after the farm ? A Yes sir. I have seen his family there too, at times.
Q They have lived there since 1893 ? A Yes sir

Examined by Mr. Mellette

Q What time would the family come down there ?
A At various times; I have seen them there at different times. Don't understand me to say that they were residing there; they would be down there in the summer season for a month or so. I would see his children there and his wife.

By Mr. Hastings:

Q Just down there temporarily, and they would then go back to Chetopa ? A Yes sir, I guess so.
Q Just for two or three weeks at a time ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this December 6, 1902.

B. C. Jones
Notary Public.

Cherokee D #458

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Elizabeth Ridenour and minor children, Charles C. and Elmer O. Ridenour, as citizens of the Cherokee Nation of Shawnee blood:

DECISION

The record in this case shows that on September 28, 1900, John M. Ridenour appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of Elizabeth Ridenour and minor children, Charles C. and Elmer O. Ridenour, as citizens of the Cherokee Nation of Shawnee blood. The application also included the said John M. Ridenour, husband of the said Elizabeth Ridenour, who claims right to enrollment as a citizen by intermarriage of the Cherokee Nation, but the status of such persons not being fixed at this time, the said John M. Ridenour is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on March 1, October 27 and December 2, 1902.

The evidence shows that the applicant, Elizabeth Ridenour, is of Shawnee blood and that the applicants, Charles C. and Elmer O. Ridenour, are the minor children of the said Elizabeth Ridenour. The said Elizabeth Ridenour is duly identified on the register of names of members of the Shawnee tribe of Indians who removed to and located in the Cherokee Nation in accordance with the terms of an agreement made June 7, 1869, by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians, and approved by the President of the United States June 9, 1869. All of the applicants herein are identified on the 1896 census roll of the Cherokee Nation as adopted Shawnees.

The evidence further shows that the applicant, Elizabeth Ridenour, has continuously resided in the Cherokee Nation since she located therein, as aforesaid, except during the last nine or ten years, during which time she has resided in Chetopa, Kansas. It further appears that during all the time the applicant has been residing in Kansas she, together with her husband, has owned personal property in the Cherokee Nation.

The residence of the minor applicants herein has been the same as that of their mother, the said Elizabeth Ridenour, since birth.

Cherokee D # 55

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D 937 (I. T. D. 2900-1903), that the said Elizabeth Ridenour, Charles C. Ridenour and Elmer O. Ridenour should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T.B.Needles.
Commissioner.

(SIGNED). C.R. Breckinridge.
Commissioner.

(SIGNED). W.E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this SEP 18 1903

COMMISSIONERS
TAMS BIXBY.
THOMAS B NEEDLES
C R BRECKINRIDGE
W E STANLEY

ALLISON L AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-458

Muskogee, Indian Territory, September 22, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 18, 1903, granting the application of John M. Ridenour for the enrollment of his wife, Elizabeth Ridenour, and his two minor children, Charles G. and Elmer O. Ridenour, as citizens of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-14

N 40

John M. Ridenour et al

A. Original testimony Sep 28 1900.
B. Memo of application Sep. 28 1900.
C. Marriage license and certificate.
D. Receipt for testimony.

D

E. Sup. test. from Frederick Garrett case
F. Notice of final consideration 3/[illegible]/02

Re[illegible] ith

G. Receipt

OCT 7 1907

H. Cert. of proceedings of court
See Jacket 3680, O495
Brief for applicant

Cher D 459

Cher D 459

2059

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900
Chairman

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T., SEPTEMBER 28th, 1900.

IN THE MATTER OF THE APPLICATION OF Vaden Wicked for enrollment as a citizen of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Vaden Wicked.
Q What is your age? A Twenty three.
Q What is your Postoffice? A Wyman.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself.
Q Any one else? A No sir.
Q Are you a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Just about all my life; I was born in Texas.
Q Twenty years or more? A Yes sir.
Q Are you on the roll of 1880? A I think I am.
Q And the roll of 1896? A Yes sir.
Q What district were you from in 1896? A I do not know.
Q What is the name of your father? A John N. Wicked.
Q Is he living or dead? A He is living.
Q Cherokee or white man? A Cherokee.
Q Your mother's name please? A Her name is Lenora Norton.
Q Cherokee or white woman? A White woman I think.
Q Is she dead? A Yes sir.
Q How long has she been dead? A She has been dead more than twenty years.
(1896 Roll, Page 81, #2271, Vaden Wicked, Canadian District)
Q Where were you born? A In Texas.
Q Were you readmitted? A Yes sir.
Q Where is your certificate of admission? A I do not know.
Q Were you in Canadian District in 1896? A Yes sir.
Q You say you think you have been readmitted? A Yes sir.
Q How old were you when you came from Texas? A About four years old.
Q After the roll of 1880? A I do not know.

The applicant states that he was born in the State of Texas, and came to the Cherokee Nation when he was four or five years old, which would place him, according to the evidence, after the roll of 1880. He claims that he was admitted to citizenship by the Cherokee Commission or council, but has no official evidence of that fact: That he has lived in the Cherokee Nation ever since he was four or five years old. He is identified on the roll of 1896, as a native Cherokee: His application for enrollment will now be placed on a "Doubtful Card", awaiting official evidence of his admission, which is understood to have taken place in 1882.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me
this 31st day of September, 1900.

C R Breckinridge
COMMISSIONER.

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BEST AVAILABLE COPY

DEPARTMENT [illegible]

COMMISS [illegible]

[illegible]

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 1st, 1900.

SUPPLEMENTAL TESTIMONY IN THE MATTER OF THE APPLICATION OF VADEN WICKED FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN.

The said Vaden Wicked, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:
Q What is your name? A Vaden Wicked.
Q What are you here for? A I was here before and I want to prove my admission now.
THE COMMISSIONER: The applicant presents a duly authenticated certificate of Cherokee citizenship, showing that on September 25th, 1882, certain persons were admitted to citizenship by the Cherokee Commission, and among them appears the name of Vaden Wicked.
Q That is your name is it? A Yes, sir.
THE COMMISSIONER: This is recognized as official evidence of the facts stated, and this testimony will be filed with the applicant's previous application.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings had at the time of the supplemental hearing above mentioned, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 18th day of October A. D. 1900.

Commissioner.

"R"

Cherokee D 459.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Vaden Wicked for the enrollment of himself as a Cherokee citizen;

Appearances:
Applicant in person.
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: Applicant was notified by registered letter February 11,1902, that his case would be taken up for final hearing by the Commission on the 27th day of February, 1902, and that he could on said day appear either in person or by attorney and introduce any furthet testimony affecting his case. He this day appears in person and requests that his case be taken up for final consideration.

Applicant presents a certificate showing that he was admitted to citizenship in the Cherokee Nation by the Cherokee Commission on citizenship September 25,1882, and same will be filed herewith.

VADEN WICKED being sworn and being examined testified as follows:
BY COMMISSION:

Q What is your name? A Vaden Wicked.
Q How old are you? A I am 25 years old, I was born in '77.
Q What is your post-office address? A Wimer.
Q Do you desire to make any statement relative to your application for enrollment? A No sir, I don't know no more.
Q Do you submit the case to the Commission for final consideration?
A Yes sir, unless you want more.

BY COMMISSION: Applicant and the representative of the Cherokee Nation present submit this case to the Commission for consideration, and same is ordered closed and reported to the Commission for final consideration and decision.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimonyand proceedings in this case and that the foregoing is a ~~xx~~ true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26,1902.

Commissioner.

Cherokee D 488

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES. HHL.

In the matter of the application of Vaden Wicked for the enrollment of himself as a citizen by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 28, 1900, the applicant, Vaden Wicked, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation. Thereafter, on October 1, 1900, at Vinita, Indian Territory, further evidence in the matter of this application was heard, and on February 25, 1902, at Muskogee, Indian Territory, further proceedings were had.

It appears from the evidence in this case that the applicant, Vaden Wicked, 23 years of age at the time of his application, was born in Texas and came to the Cherokee Nation at the age of four years and was re-admitted, on September 25, 1882, with others, to all the rights and privileges of Cherokee citizenship by the Commission on Citizenship of the Cherokee Nation. The name of the applicant, Vaden Wicked, appears upon the Cherokee Strip Payment Roll of 1894 as "Vaden Wicket". He is also identified on the Cherokee census roll of 1896. He has lived in the Cherokee Nation ever since his admission in 1882.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898. (30 Stats. 495.)

It is therefore the opinion of this Commission that Vaden Wicked is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

T. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this AUG 11 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 459.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Vaden Wicked for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 18.

D 159

IN THE MATTER OF THE APPLICATION OF

Vaden Wicked et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Sep 28-1900.
B Memo of application Sep 28 1900.
X Supplemental testimony Oct 1-1900.
Co

D Notice of final consideration 2/29/02
E Certify of admission
F Order closing testimony, Feb. 25, 1902
Sept 13, 1902 Cancelled and
transferred to [illegible] 584

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 28, 1900.

In the matter of the application of Starling Colston for the enrollment of himself and wife as Cherokees by blood; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A Starling Colston.
Q What is your age? A I will be 47 coming December.
Q What is your post office address? A Spavinaw.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Always have been.
Q Are you now? A Yes, sir.
Q By blood or intermarriage? A By blood.
Q What degree of blood? A I can't hardly tell you, you can determine for yourself, about 3/4.
Q For whom do you apply? A For myself and wife.
Q What is your wife's name? A Clementine Sheppard.
Q She a Cherokee by blood? A Yes, sir.
Q When did you marry her? A In 1878.
Q How long have you been living in the Cherokee Nation? A All my life.
Q Your wife alsi? A Yes, sir; I wish to state here that I wasn't in the Territory in 1880.
Q By what right do you claim citizenship? A Because I am here by blood; I was a solder by trade and went to Texas in 1879.
Q Were you readmitted? A I applied to Council and they didn't require any re-admission.
Q How long have you lived in the Cherokee Nation? A All my life.
Q I thought you said you lived in Texas? A I was in Texas following my trade.
Q How long have you been living in Texas? A I was in Texas the first time three years.
Mr. W.W.Hastings, representative of the Cherokee Nation: When did you go to Texas? A In 1879.
Q How long did you live there at that time? A Three years.
Q You came back in 1882? A In 84.
Q It was four years then? A Not quite four years.
Q How long did you stay here that time? A I stayed here about four or five years.
Q Where did you go then? A I then again went to Texas, I was called there by my occupation.
Q By your trade? A Yes, sir.
Q Then how long did you stay in Texas that time? A 2 years.
Q Then were did you go to? A Came to Webbers Falls, my old home.
Q How long did you remain at Webbers Falls that time? A Been there ever since until I moved to Spavinaw in the Delaware district.
(On 1896 roll, page 13, No. 363, Clementine Colston, Canadian district. Starling Colston on 1896 roll, page 13, No. 362, Tuxie Colston, Canadian district; on 1894 roll, page 13, No. 298, Tuxie Colestone, Canadian district. Clementine Colston on 1894 roll, page 13, No. 299, Clementine Colestone, Canadian district.)
Commissioner Needles: Your wife's name on the roll of 1880?
A No, sir, she was with me in 1880.
Q You only apply for yourself and wife? A Yes, sir.

The name of Starling Conston appears upon the census roll of 1896 as Tuxie Colston, and the name of his wife, Clementine, also appears upon the roll of 1896. The applicant's name appears upon the roll of 1894 as Tuxie Colestone and his wife's name appears as Clementine Colestone. They are fully identified according to the page and number of the roll as indicated in the testimony. Their names do not appear upon the authenticated roll of 1880 for the reasons given by the applicant in his testimony. Final judgment as to the enrollment of the said Starling Colston and his wife, Clementine, will be suspended and their names will be placed upon a doubtful card.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 1st of October, 1900.

Commissioner.

D 460

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Sterling Colston, for the enrollment of himself and wife as citizens of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself and wife as citizens of the Cherokee Nation, would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission in person or by attorney and an opportunity would be given him to introduce any further testimony affecting his application.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to appear either in person or by attorney, it is directed that the case be closed, and that the same be reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

were there only at times, under two doctors, and I wasn't able to come to you and the Dawes Commission and when I was eventually hauled there in a wagon; I thought I was going to die, and on account of my boys-

Did you make the application? No, sir, because I was not in Washington, the day I went there.

The tribal rolls of the Cherokee Nation examined and neither the applicant nor his children are identified thereon. The records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship in the Cherokee Nation by the tribal authorities.

The records of the Commission made in accordance with the Act of Congress approved June 10, 1896, examined and fail to disclose that either the applicant or his children applied to the Commission under the provisions of said Act to be admitted to citizenship in the Cherokee Nation.

Commission: Jerry Walkingstick applied for the enrollment of himself and his two children, Samuel and Jesse Walkingstick, as citizens of the Cherokee Nation. Neither the applicant nor his children are identified upon any of the tribal rolls of the Cherokee Nation; neither does it appear that they were ever admitted to citizenship, in the Cherokee Nation by the tribal authorities, or by the Commission to the Five Civilized Tribes. This applicant does not seem to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly

(Memo.)

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 8, 1902.

In the matter of the application of BERRY WALKINGSTICK for the enrollment of himself and two children as citizens of the Cherokee Nation; said Walkingstick being duly sworn and examined, testified as follows:

By the Commission:

Q What is your name? A Berry Walkingstick.
Q How old are you? A I don't know, sir.
Q Well, about how old? A I could not tell to be positive, I was just a boy in time of that '61 war, just small boy. (About 40.)
Q What is your post office? A My post office is Okmulgee.
Q Are you living in the Creek?Nation? A Yes, sir.
Q Do you apply for enrollment as a Cherokee by blood?
A Yes, sir.
Q How much Cherokee blood do you claim? A Half breed I suppose, sir.
Q Do you apply for anyone besides yourself, any child?
A I have got two boys.
Q How old are then? A Here is one of them, and the other one is up at Chelsea.
Q How old are they? A One of them is 18 and the other is 15.
Q What is the name of the one 18 years old? A Manuel.
Q What is the name of the next one? A Jesse.
Q Is that a/ll? A Yes, sir.
Q Are they both living? A Yes, sir.
Q What is their mother's name? A Elizabeth.
Q Is she a Cherokee or whitewoman? A She is a White woman.
Q Is she living or dead? A I don't know whether she is living or not; we haven't been living together for three years.
Q She is the mother of both the children? A Yes, sir.
Q What is your father's name? A Samuel Walkingstick, if I am not mistaken.
Q Is he living? A No, sir, he is dead; I know nothing about him only just the teaching of my mother during her life-time.
Q Do you claim your right through your father? A Yes, sir.
Q What is your mother's name? A Margaret.
Q Is she living? A No, sir, she is dead.
Q Was she a Cherokee or white woman? A Was a white woman; she died when I was just a boy.
Q Have you ever lived in the Cherokee Nation? A I lived there abut 19 years; I came there February, 1882.
Q Where did you come from? A I come from East Tennessee.
Q When ~~did~~ you came to the Cherokee Nation at that time did you apply to the tribal authorities for citizenship? A No, sir, I can't say that I did, only in this way; the Councilmen that was living around in the settlement there said it was not worth while for me to to because I come there too late at that time I had good witnesses.
Q You have never been admitted to citizenship?
A No, sir.
Q Have you ever drawn any money from the tribal authorities?
A Not that I know of.
Q You would know it if you had wouldn't you?
A yes, sir.
Q Did you apply to this Commission ~~for citizenship~~ in 1896 for admission to citizenship in the Cherokee Nation; about six years ago?
A No, sir, I reckon not; You were here at Vinita in this business

I was then sick at Chelsea, under two doctors, and I wasn't able to go to you and the Dawes Commission said when I was eventually hauled there in a wagon; I thought I was going to die, and on account of my two boys-

Q Did you make the application? A No, sir, because Mr. Dawes was in Washington, the day I went there.

The tribal rolls of the Cherokee Nation examined and neither the applicant nor his children are identified thereon. The records of the Cherokee Nation examined and fail to disclose that the applicant was ever admitted to citizenship in the Cherokee Nation by the tribal authorities.

The records of the Commission made in accordance with the Act of Congress approved June 10, 1896, examined and fail to disclose that either the applicant or his children applied to the Commission under the provisions of said Act to be admitted to citizenship in the Cherokee Nation.

Commission: Berry Walkingstick applies for the enrollment of himself and his two children, Manuel and Jesse Walkingstick, as citizens of the Cherokee Nation. Neither the applicant nor his children are identified upon any of the tribal rolls of the Cherokee Nation; neither does it appear that they were ever admitted to citizenship in the Cherokee Nation by the tribal authorities, or by the Commission to the Five Civilized Tribes. This application seems to come within the provisions of the Act of Congress approved May 31, 1900, which Act provides: "That said commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." Consequently the application of Berry Walkingstick for the enrollment of himself and two children will be listed for rejection and only a memorandum will be made of their application.

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I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Stenographer.

Cherokee D 460

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Sterling Colston for the enrollment of himself and his wife, Clementine Colston, as citizens by blood of the Cherokee Nation.

DECISION.

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The record in this case shows that on September 28, 1900, Sterling Colston appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his wife, Clementine Colston, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on March 25, 1901.

The evidence in this case shows that Sterling Colston and his wife, Clementine Colston, both Cherokees by blood, were married in 1878, and have lived in the Cherokee Nation all of their lives except for short periods of time when the said Sterling Colston was in Texas following his trade. One of these periods was from the years 1879 to 1884, and the names of Sterling Colston and his wife, Clementine Colston, were not placed upon the authenticated tribal roll of 1880. Sterling Colston and his wife, Clementine Colston, are identified on the Cherokee Pay Roll of 1886, on the Cherokee Strip Payment Roll of 1894, and on the Cherokee Census roll of 1896.

It is, therefore, the opinion of this Commission that Sterling Colston and Clementine Colston should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this AUG 19 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:
Cherokee D 460.

Muskogee, Indian Territory, August 19, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 19, 1902, granting the application of Sterling Colston for the enrollment of himself and his wife, Clementine Colston, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Tams Bixby
Acting Chairman.

Enc. C. No. 15.

IN THE MATTER OF THE APPLICATION OF

Sterling Tolston et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 28-1900.

B. Memo. of application Sep 28 1900.

C. Notice of final consideration 2/27/02

[illegible]

[illegible]

[illegible]

Supplementary testimony 3/28/02

Order closing testimony 2/27/02

Sept 13, 1902 Cancelled and transferred [illegible]

Cher D 461

Goleyhugh Harlow

Cher D 461

DH61

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 29 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible]

In the matter of the application of [illegible] Marlow for the enrollment of [illegible] being sworn [illegible] testified as follows:

Q What is your name? A [illegible] Marlow.
Q [illegible] A [illegible]
Q What is your post-office address? A [illegible].
Q What district do you live in? A Cooweescoowee.
Q [illegible] citizen of the [illegible] by blood?
A [illegible] married.
Q Your father [illegible] non-citizen? A [illegible].
Q What is the name of your wife? A [illegible] Ann [illegible] Marlow; her name
[illegible] before she was married.
Q [illegible] A [illegible]
Q [illegible] A [illegible].
Q [illegible] A [illegible]
[illegible]
[illegible] presents [illegible] certificate [illegible]
[illegible] on the [illegible] day of [illegible]
[illegible] thereto
[illegible] Ann [illegible]
[illegible] land, certificate
[illegible] Creek, [illegible]
Q [illegible] A [illegible].
Q [illegible] A [illegible].
Q [illegible] A [illegible]
[illegible].
Q [illegible] children? A [illegible] 17 [illegible] old;
Q What is the name of the next oldest? A Walter.
Q [illegible]
Q [illegible]
Q [illegible] A [illegible]
[illegible] A [illegible] A Q [illegible] A [illegible]
Q [illegible] A [illegible] Q [illegible] A [illegible]
[illegible] A [illegible].
[illegible] A [illegible].
[illegible]
Q [illegible] A [illegible].
Q [illegible] child?
A [illegible]
Q [illegible]
[illegible].
Q [illegible]
Q [illegible].
Q [illegible] A [illegible]
[illegible] 35 years.
Q [illegible].
Q [illegible]
[illegible] A [illegible].
Q [illegible] married [illegible] A [illegible].
Applicant: [illegible] six [illegible] of
[illegible] Sequoyah [illegible] enrolled [illegible].
Q [illegible] except [illegible].
Q [illegible] in [illegible]
[illegible].
Q Where was your [illegible] A [illegible] was born in [illegible]
[illegible] County, [illegible].
Q What was your father's name? A George Evans.
Q When did he die? A He is not dead.
Q He is a white man? A Yes sir.

Q What is [illegible] A Peggy Hearn.
Q Is she living? A [illegible] sir.
Q Was she an Indian? A Yes sir.
Q When did she die? A I believe she died in 1885 or [illegible].
Q You [illegible] that your wife was a daughter [illegible]
A Yes sir.
1880 roll page 175 #2193 Annie Harlow Cooweescoowee District;
1880 roll page 307 #457 Golenhugh Harlow, "
1880 roll page 175 #2194 Bertha Harlow "
1880 roll page 175 #2195 Walter Harlow "
1880 roll page 175 #2196 Alice Harlow "
1880 roll page 175 #2197 James Harlow "
1880 roll page 175 #2198 Joe Harlow "
1880 roll page 175 #2199 [illegible] Alex Harlow "
1894 roll page 220 #2272 Peggie A. Harlow Cooweescoowee Dist;
1894 roll page 220 #2273 Bertha Harlow "
1894 roll page 220 #2274 Walter Harlow "
1894 roll page 220 #2275 Alice Harlow "
1894 roll page 220 #2276 James Harlow "
1894 roll page 220 #2277 Joseph Harlow "
1894 roll page 220 #2278 [illegible]s Alexander Harlow "
Q Have you any certificate of admission or re-admission for your wife? A No sir, [illegible] unless you would call that one.
(Presents paper)

EXAMINATION BY CHEROKEE ATTORNEY P.C.WEST.

Q Didn't your wife apply to the Dawes Commission in 1896 along with George Hearn? A No sir.

Com'r Needles:

Q You say your wife didn't apply? A I made application in 1883 or 1884 when this was issued; I made application and Mr. Clem Rogers told me she was out of here as a minor going to school and came back and her rights wasn't disputed, and as soon as the law didn't apply to that; he was President of the Senate at the time, and this is what he issued me. (Referring to paper handed by applicant to Commissioner)
Q You contend that you didn't apply in 1896? A No sir.
Q Where did your wife's mother die? A She died in [illegible] County Kansas.
Q Your wife was born in Kansas? A Yes my wife was born in Kansas.

By Cherokee Rep've W.W.Hastings:

Q When was your wife born? A In [illegible] I believe.
Q When did she come to the Cherokee Nation first? A She came in the latter part of 1880 I think it was.

By Com'r Needles:

Q Was that the time her mother came? A Her mother never did come.
Q What brought her here? A She had a right here and her folks lived here.
Q Her mother was her folks, and her mother never did come? A She had relatives living here.

By Char. Rep've Hastings:

Q Do you know Squire Green? A No sir.
Q Do you know Marietta Dunbar? A No sir.
Q You know William F. Neill? A No sir

Q Do you [illegible] Sarah E. Wright[illegible]? A [illegible] sir.
Q You know George W. Evans? A No sir.
Q You know Annie E. Evans? A No sir.
Q I mean do you know of them? A No sir.
Q Do you know whether they are related to your wife? A No sir.

(Witness reads these names from the 1896 docket of the Dawes Commission citizenship cases)

Com'r Needles: The name of Goleyhugh Harlow appears upon the census roll of 1880 as an intermarried Cherokee; he avers that he married his first wife Peggy A. Evans in the year 1881; he avers that she is a Cherokee citizen by blood; her name is found upon the census roll of 1896; he avers that he has the following children: Martha, Walter, Allen, Jenny, Joseph and Elick, whose names appear upon the census roll of 1896 and the pay roll of 1894; the youngest child, Beulah, three years of age, name is not found upon any roll, but he presents satisfactory proof of the birth of said child; the name of his wife, Peggy A. is also found upon the pay roll of 1894, the name of his wife not being found upon the authenticated roll of 1880, neither the name of her father nor mother upon the said roll; no satisfactory proof is presented as to the wife, Peggy being a Cherokee citizen by blood, consequently final judgment as to the application of the said Goleyhugh Harlow for the enrollment of himself, his wife and family will be ~~passed~~ suspended and their name will be placed upon a doubtful card.

M.D.Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

MDGreen

Subscribed and sworn to before me this [illegible] day of September 1900.

C R Breckinridge

Commissioner.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 3rd, 1900.

SUPPLEMENTAL TESTIMONY IN THE MATTER OF THE APPLICATION OF G. W. HARLOW FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS)))CARD D.461.

George Walker, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A George Walker.

Q How old are you? A Seventy years old.

Q What is your postoffice? A Kinnison.

Q Peggie A. Urus? A Yes, sir.

Q Her name is not found on the roll of 1880, do you know the reason why? A They was minors then.

Q Are you any relation to them? A Yes, sir.

Q What relation? A About one-third cousins.

Q What is the name of her father? A George Urus.

Q Is he a Cherokee citizen by blood? A No, sir.

Q What is the name of her mother? A Peggie Ann.

Q Is that the mother of Harlow's wife? A Yes, sir.

Q Is she a citizen by blood? A Yes, sir.

Q Was her name on the roll of 1880 or did she die before that? A She died before.

EXAMINATION BY W. W. HASTINGS, representative of the Cherokee Nation.

Q Do you know where this woman was born, this man's wife, Peggie Harlow? A She was born on the Neutral Land.

Q In Kansas? A Yes, sir. And after that was sold she lived there for a number of years, or she lived there until before she was a woman and then her father fetcher her to a place right beside of me on Cabin Creek.

Q When? A Some twenty years ago.

Q Since 1880 wasn,t it? A Well, it was about that time.

Q She took her reservation in the Neutral Land? A No.

Q How do you know? A I know she did not.

Q How do you know it? A He came to me and asked me---He took a place and he came to me and asked me if I wouldn't receive that money and hold it for him, and I told him I didn,t want to have anything to do with it.

Q Do you know whether she was ever admitted to citizenship when she moved back into the Cherokee Nation? A They went down there. They had me along with them, and it was decided down at court at the Council that she was a minor and didn't need any, and I supposed it was all right.

Q Do you know when she was born? A No, I do not.

Q What was her father's name? A Her father was named George.

Q What was her mother's name? A Peggie Ann.

Q Was her father or mother a Cherokee? A Her mother.

Q What was her mother's maiden name? A Wolf.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the supplemental testimony and proceedings in this application, had at the time above mentioned, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 1[illegible]th day of October A. D. 1900

Commissioner.

Department of the Interior.
Commission to the Five Civilized Tribes.
Nowata, I. T., October 15, 1900.

Additional testimony in the application of Goleyhugh Harlow for the enrollment of himself, wife and children as Cherokee citizens.

George Ewers, witness, sworn and examined by Commissioner T. B. Needles.

Q What is your name? A George Ewers.
Q What's your age? A 65.
Q What's your postoffice? A Galena, Kansas.
Q Do you know Peggy A. Ewers? A Yes sir.
Q What do you know about her being a Cherokee by blood? A She always passed as a citizen.
Q How long have you known her? A Ever since '65.
Q Is she any relation of yours? A A daughter of mine.
A She always passed as a Cherokee citizen by blood. Her mother was supposed to be that.
Q Do you know the reason why her name is not upon the roll of 1880?
A I do I guess; I had control of them at that time and sent them to school.
Q Was she ever recognized as a Cherokee citizen by the Cherokee authorities? A Not that I know of.
Q Where was she born? A She was born in Kansas.
Q Was she raised in Kansas? A Mostly so, I had her under control until about '82.

Representative Baugh; of the Cherkee Nation:
Q Did you and your wife ever live in the Cherokee Nation? A We lived in what is called Delaware district.
Q Were you recognized as Cheroke citizens? A Yes sir.
Q So recognized by the authorities? A At the time I married, it was during the war; consequently we could not be recognized; when the war was over we were cut off as we lived after the war in the neutral land.
Q Did you ever live here at all? A I lived here about nine months up here in what is called Cooweescoowee district.
Q Did you ever own any property in the Cherokee Nation? A I did not.
Q Where was your daughter married at to this gentleman, Harlow?
A She was married in Cooweescoowee district.
Q Was she ever married under Cherokee law? A I do not know.

Commissioner T. B. Needles:
Q Where did she live when she was married? A Cooweescoowee district.
Q Did you live there? A Yes sir.
Q She was living there? A Yes sir, she was married during the nine moths I was living there.

Representative Baugh of the Cherokee Nation-
Q She never did claim any right to citizenship except that she always understood her mother was a Cherokee? A Yes sir.
Q Did you ever apply to Cherokee authorities for admission? A Did not.
Q Did you ever in any way come to the Cherokee authorities and ask them to give you the rights? A Did not. I come here thinking we had a right.

Commissioner ~~T. B.~~ Needles-
Q You never ~~[illegible]~~ made application for yourself, nor wife, nor children? A No sir, my wife was a white woman; my Cherokee wife was dead. She died in '65

Q She was the mother of Harlow's wife? A Yes sir.
Q She died in '65? A Yes sir.
Q Where? A In Kansas, Cherokee County.
Q You never applied to the Dawes Commission in 1896? A Did not.
Q Your wife, the mother of Peggy, died in '65 in Kansas; Peggy was born in Kansas, she lived there until how long? A Until 1882.
Q How old was she then? A She was born in '65; about 17years of age.
Q Then you moved about nine months down in the Cherokee Nation and Harlow married Peggy there? A Yes.
Q Then did Harlow move back to Kansas? A Not that I know of.
Q You were a citizen of Kansas? A I was a citizen of Kansas.

Representative Baugh, of the Cherokee Nation-
Q Your daughter was born as a citizen of Kansas; she was born on the neutral land and supposed to be a Cherokee? A Yes sir, that was their home.
Q Did you or did you daughter ever ask for enrollment from the Cherokee authorities? A I don't know what my daughter did after she was married. I did not as I stated to you before.

Witness, James Goddard, swornand examined by Commissioner T. B. Needles, testified as follows:

Q What's your name? A James Goddard.
Q What's your age? A 65.
Q What's your postoffice? A Kenison, I.T.
Q Do you know Peggy Harlow? A Yes sir.
Q How long have you known her? A I have known her ever since she was born.
Q What do you know about her Cherokee citizenship? A I know her mother was a Cherokee; I know that.
Q Her mother was a Cherokee? A Yes sir.
Q How much Cherokee? A I guess about 1/2; she was a Wolfe.
Q Did her mother ever live in the Cherokee Nation? A She was raised on the neutral land.
Q Was her mother ever recognized as a Cherokee citizen by the Cherokee authorities? A Yes sir.

Representative Baugh: of the Cherokee Nation -
Q Did her mother take an allotment by the right of her Cherokee citizenship on the neutral land? A No sir, she was dead.
Q Was their any allotment taken for this child Peggy? A No sir.
Q Why wasn't that done? A They were young, and their father wouldn't take their rights.

Commissioner T. B. Needles-
Q You say Peggy Harlow was always recognized as a Cherokee citizen?
A She was mong our people up there.
Q Was she by the Cherokee authorities? A I can't tell you about that.

Representative Baugh, of the Cherokee Nation-
Q Are you a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.

Witness, James C. Blithe, sworn and examined by Commissioner T.B. Needles, testified as follows:
Q What's your name? A James C. Blithe.
Q Your age? A I suppose I am about 76.
Q What is your postoffice? A Bartlesville.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q You knew Peggy Harlow who used to be Peggy Ewers? A Yessir. I was acquainted with her when she was a small girl, we went to

school together.
Q Where? A On the neutral land.
Q Did you know her mother? A Yes sir.
Q Was her mother a Cherokee? A Yes sir, both Cherokees.
Q Her father testified that he was a white man a little while ago? (No answer.)

Representative Baugh, of the Cherokee Nation-
Q Are you talking about this man's wife or the daughter? A The old gentleman's wife.
Q You mean Peggy's mother? A The old original one. I wasn't acquainted with the young Peggy.
Q How do you know this Peggy is the daughter of the other Peggy?
A Parents claim it.
Q Did you ever see Harlow's wife? A Don't know her.
Q Don't know anything about her? A No sir.

Commissioner T. B. Needles.
Q It was her mother you knew? A Yes sir.

Representative Baugh of the Cherokee Nation-
Q That is who claimed to be her mother? A Yes sir.

Mr. Ewers recalled,by the applicant.
Q Mr. Ewers you know that there was no reservation taken for Peggy Harlow? A No sir, there was none taken.
Q You know she was in school in the eighties, wasn't she? A Yes sir, under my control.
Q And she wasn't of age when she came to the territory, was she?
A No sir, she was not of age. I brought them back to have them re-instated. I lived on the neutral land and I did not want to keep them away and that is the reason I brought them back, and during that time she marriedtheman Harlow.

Representative Baugh, of the Cherokee Nation-
Q Why did you not, as her father, take an allotment on the neutral land when you knew that they had a right to take it as a citizen? A Couldn't take it because we were refugees during the war, the time we were married; consequently I had never gone and taken out any. I couldn't be a citizen unless I was recognized by the law, and you know what the law of 1860 was in regard to a Cherokee. I was a white man and we were married during the war as refugees.
Q Your daughter was a Cherokee, was she not? A Yes sir.
Q Why did you not take out an allotment for her? A This very reason, I did not give them their right and I didnot want to take it away, and consequently I was not a Cherokee citizen. I can show that I did not take one.

The applicant to Mr. Ewers-
Q Have you a deed of the land that Peggy lived on at the time the reservations were taken. A I have a deed, yes sir; a deed for the land I had taken as a citizen of the United States.
Q That is the land that Peggy, your wife, died on? A Yes sir.that is the land she died on.

Commissioner T. B. Needles-
Q You never got any lands from anybody on account of Indian blood of your wife or children? A No sir.

Mr. Goddard recalled by applicant.
Q Mr. Goddard, do you know whether or not there was a reservation taken for Peggy Harlow, daughter of Peggy Ewers or Peggy Wolfe?
A There was not.
Q You know when Peggy Ewers died? A Not exactly, about '65,
Q Whether she died before the reservations were taken? A Yes sir.

Mr. Baugh, Representative of the Cheroke Nation -
The Cherokee Nation protests against the enrollment of Goleyhugh Harlow, his wife and all of their children for the simple fact that had they been Cherokees they would have had a right to take an allotment on the neutral land and that they could have come to the Cherokee Nation, if [illegible] that he [illegible] saw fit to have come and been admitted to citizenship as other Cherokees have done. That they never have been admitted at all; consequently, they are not Cherokees by blood.

E. G. Rothenberger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings in the above case, and that the foregoing is a true and complete translation of his stenographic notes in said case.

E. G. Rothenberger

Subscribed and sworn to before me this 16th day of October, 1900.

Commissioner.

[illegible]

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
[illegible]
[illegible]

[illegible]

ADDITIONAL-TESTIMONY.

CARD "D" #461.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I.T., FEBRUARY 26th, 1901.

IN THE MATTER OF THE APPLICATION OF Gebyhugh Harlowe et al, D.#461.

C. V. Rogers, being sworn and examined by Commissioner, T. B. Needles testified as follows:

Q What is your name? A C. V. Rogers.
Q What is your age? A Sixty two.
Q What is your Postoffice address? A Claremore.

By Mr. A. M. Calloway, attorney for applicant:
Q Are you acquainted with Mrs. Harlowe? A I am.

By Mr. F. W. Hastings, Cherokee Representative:
Q Were you a senator of the Cherokee Nation in 1880? A Yes, sir., at that time Mr. Harlowe came to me there at Tahlequah, while I was a member of the Senate and wanted his wife readmitted, and he said that his wife came back here while she was a minor, and I took the ground that it was not necessary to admitt her if she was a minor when she came back here. She was raised on neutral land.
Q Do you know where she was born? A On the Neutral Lands.
Q Neutral lands in Kansas? A Yes, sir.
Q When it was a part of the Cherokee Nation? A Yes, sir., at that time.
Q Before it was disposed of? A Yes, sir.
Q After it was disposed of, she lived there a while? A Yes, sir.
Q While still a minor, she returned to the Cherokee Nation?
A Yes, sir.
Q Her maiden name was Moores? A Yes, sir.
Q Do you know where she was married? A No, sir; I don't.

By Mr. A. M. Calloway, attorney for applicant:
Q Do you know whether or not there was any reservation taken for her in Kansas? A No, only just what I have heard.
Q You stated that she was born in the neutral lands in Kansas, at that time a part of the Cherokee Nation? A Yes, sir.
Q Was that land sold by the Cherokee Nation? A It was sold by order of the Cherokee Nation.
Q And she did not move out of the Cherokee Nation, when she lived there? A I don't remember just what year it was sold to the Government.
Q But she did not move out by reason of the Nation selling that territory? A No, sir. She came back here, my understanding is, when she was only seventeen years old.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 27th day of Febuary, A. D., 1901.

COMMISSIONER.

"R"

D 461

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Ind. Ter., February 27, 1902.

In the matter of the application of Golyhugh Harlow, for the enrollment of himself, wife and children as citizens of the Cherokee Nation:

The Commission: Applicant and his attorney were notified by registered letter on February 11, 1902, that the application of Golyhugh Harlow for the enrollment of himself, wife and children as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter, and the applicant this day, to-wit: the 27th day of February, 1902, appears by his attorney A. M. Calloway, of Claremore, Indian Territory.

Is there any statement you desire to make relative to this case Mr. Calloway ?

Mr. Calloway: In this case the Commission held, from the original affidavit of Mr. Harlow, that there was not proof his wife Peggy's being a citizen by blood. The statements made subsequently by George Walker, a citizen of the Cherokee Nation, states that Peggy Ann Harlow is a Cherokee Indian by blood; and also the statement of James Gradard and C. V. Rogers, both state that Peggy Ann Harlow is a Cherokee citizen by blood. Mrs. Harlow having been born in the Cherokee Nation, in what has since been known as the neutral lands of Kansas, born upon said lands before the lands were sold by order of the Cherokee Nation, she was a native born Cherokee, and when the lands were sold, she being a minor and under the control of her father, resided with him on said lands for sometime, but before she was seventeen years old, and yet a minor, she returned to the Cherokee Nation and was recognized as a citizen of the Nation, and presented herself and her application to the Cherokee Council in 1880 and asked to be re-admitted as a citizen of the Cherokee Nation, and the authorities of the Cherokee Nation having power to pass upon such applications held that it was not necessary to go through the form of re-admission she being a natural born Cherokee was considered a Cherokee citizen without the action; that while some Cherokee citizens residing on the neutral lands that were sold in Kansas by order of the Cherokee Nation took a reservation upon the said lands by right of their Cherokee blood, the certificate of the Assistant Executive Secretary of the Cherokee Nation filed in this case shows that Peggy Ann Ewers took no lands there for herself, or any one for her; that she has been recognized as a citizen since her return to the Cherokee Nation, and her name appears upon all the rolls made since 1880; that Goleyhugh Harlow, her husband, has been recognised as a citizen by reason of his marriage with Peggy Ann Ewers; has held office under the Cherokee government, and been amenable to the Cherokee laws and courts; that he was a recognized citizen by the Cherokee authorities to all intents and purposes.

Mr. Hastings: The Cherokee Nation contends that this is not an investigation now as to Cherokee blood, and that therefore the testimony introduced tending to show that the applicant's wife is a Cherokee by blood is not admissible, but that it is the province of this Commission now to enroll only those who are recognized citizens of the Cherokee Nation; and that, inasmuch as the applicant was born in the neutral lands, and that the same was disposed of by order of the government, and that she continued to reside there she forfeited her citizenship, and it was absolutely necessary for her to be re-admitted upon her return to the Cherokee Nation; and her action shows that it was necessary for her to be readmitted, because, as alleged by counsel, and as the proof shows, she presented herself to the National Council in 1880 and obtained, or for the purpose of obtaining her re-admission, and the same, for some reason, was not granted. It is not shown who the "authorities" are referred to in the argument of counsel for the applicant, when he says that the "authorities recognized her as a citizen". The only way she could have been recognized as a citizen is by her having been readmitted to citizenship by the Cherokee Council, or by a court of competent jurisdiction.

Mr. Calloway: The attorney for the applicant claims that the C. V. Rogers who is a witness, was a senator of the Cherokee Nation at the time this applicant made her application for re-admission, and on his oath states that he as a senator took the ground that she didn't require to be readmitted to citizenship, not having forfeited the same, and returned while a minor.

Mr. Hastings: The opinion of C. V. Rogers was that of a private individual and was not the opinion of the Cherokee Senate or National Council, and therefore, was not binding upon the Cherokee Nation.

Mr. Calloway: We will submit the statement of Mr. Rogers for the consideration of the Commission without further argument.

The attorney for the applicant and the representative of the Cherokee Nation present, submit the case, and the same is ordered closed, and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states, that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee D-481.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1902.

In the matter of the application of Goleyhugh Harlow for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Peggie A., and children, Bertha, Walter, Alice, James, Joseph, Elick and Beulah M. Harlow, as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Goleyhugh Harlow.
Q What is your age at this time? A About forty-seven.
Q What is your postoffice? A Kinnison, I. T.
Q Are you the same Goleyhugh Harlow for whom application was made to this Commission for enrollment as an inter-married citizen on September 20, 1900? A Yes sir.
Q What is your wife's name? A Peggie A.
Q She a citizen by blood of the Cherokee Nation? A Yes sir.
Q Is she living at this time? A Yes sir.
Q When were you and your wife Peggie married? A I believe it was in '81.
Q Were you ever married prior to your marriag to your wife, Peggie?
A No sir.
Q Was she ever married prior to her marriage to you? A No sir.
Q You her first husband? A Yes sir.
Q And she is your first wife? A Yes sir.
Q Have you and your wife lived together all the time since you were married up until the present time? A Yes sir.
Q You never have separated? A No sir.
Q You never have been married to any other woman? A No sir.
Q You were living together on the first day of September, 1902 as husband and wife? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I believe it has been about 1867 when I first came to the territory.
Q Have you lived in the Cherokee Nation all the time for the last twenty years? A Yes sir.
Q Has your wife lived in the Cherokee Nation all the time for the last twenty years? A Since 1881.
Q Are these children Bertha, Walter, Alice, James, Joseph, Elick and Beulah M. your children by your wife Peggie? A Yes sir.
Q Are they all living at this time? A Yes sir.
Q Have these children lived in the Cherokee Nation all the time since their birth up to the present time? A Yes sir.
Q Never lived outside of the Cherokee Nation? A No sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 20th day of October, 1902.

B C Jones
Notary Public.

Cherokee D-461.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Goleyhugh Harlow for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Peggie A. Harlow, and his seven minor children, Bertha, Walter, Alice, James, Joseph, Elick and Beulah M. Harlow, as citizens by blood, of the Cherokee Nation.

DECISION.

--:0:--

The record in this case shows that on September 28, 1900, Goleyhugh Harlow appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Peggie A. Harlow, and his seven minor children, Bertha, Walter, Alice, James, Joseph, Elick and Beulah M. Harlow, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 3, 1900, at Nowata, Indian Territory, on October 15, 1900, and at Muskogee, Indian Territory, on February 26, 1901, February 27, 1902, and October 3, 1902.

The evidence shows that Goleyhugh Harlow, a white man, was lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, to Peggie A. Ewers, named in the marriage license "Annie Ewers", a citizen by blood of the Cherokee Nation, in December, 1881. Peggie A. Harlow was born in what was called the "Neutral Land" before it was sold by the Cherokee Nation and became a part of the State of Kansas. Her mother was a Cherokee by blood and died before the Cherokee Authenticated Tribal Roll of 1880 was made. She did not come to the Cherokee Nation until the year 1881, she at that time being fifteen years of age. The name of Peggie A. Harlow does not appear upon the Cherokee Authenticated Tribal Roll of 1880, but she is identified on the Cherokee Census Roll of 1883, on the Cherokee Pay Roll of 1883, on the Cherokee Pay Roll of 1886, on the Cherokee Census Roll of 1896, on the Cherokee Pay Roll of 1890, on the Cherokee Strip Payment Roll of 1894 and on the Cherokee Census Roll of 1896 as a Cherokee by blood. Each of the children of Goleyhugh Harlow and his wife, Peggie A. Harlow, with the exception of Beulah M. Harlow, is identified on all of the above mentioned rolls made during his or her life time. Beulah M. Harlow, born May 14, 1897, is too young to be on any roll, but is duly identified by birth affidavit, made a part of the record herein. Goleyhugh Harlow is identified on the Cherokee Census Rolls of 1890 and 1896.

The evidence further shows that Goleyhugh Harlow has lived with his wife, Peggie A. Harlow, in the Cherokee Nation since the year 1881, up to and including September 1, 1902, and that their children have been living with them in the Cherokee Nation ever since their birth.

It is, therefore, the opinion of this Commission that Goleyhugh Harlow should be enrolled as a citizen by intermarriage, and that Peggie A. Harlow, Bertha Harlow, Walter Harlow, Alice Harlow, James Harlow, Joseph Harlow, Elick Harlow and Beulah M. Harlow should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898,(30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

GNED). Tams Bixby.
Acting Chairman.

GNED). T. B. Needles.
Commissioner.

GNE C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this NOV 20 1902

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. December 9th 1902.

In the matter of the application of Goleyhugh Harlow et al for enrollment as citizens of the Cherokee Nation.

C. D. 461.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully proeats against the Decision of the Commission rendered on November 20th 1902 in this case and asks that same be forwarded to the Honorable Secretary of the Interior for review.

The testimony in this case shows that the wife of the applicant Peggie Ann Harlow was born on the neutral land in the state of Kansas in 1865; that shortly thereafter her mother died, perhaps in the same year; that the neutral lands became a part of the state of Kansas in 1866 and that she continued to reside in the State of Kansas with her father who was a citizen of the State of Kansas and who never became a citizen of the Cherokee Nation and was never readmitted to citizenship in the Cherokee Nation. Her father continued to reside and still resides in the State of Kansas where he is and has always been a citizen. Now the Commission has held in hundreds of cases that the residence of the child is that of the father, and it is admitted that the father never resided in the Cherokee Nation. The mother died in 1865 and the child remained in the care and custody of the father until 1882. The question is what was her citizenship from 1866 after the death of her mother and after the neutral land became a part of the state of Kansas until 1882; her father was a citizen of the state of Kansas and can it be argued that she was not a citizen of the State of Kansas? And if this question is answered in the affirmative how did she ever become a citizen of the Cherokee Nation. There was only one way and that was to have been readmitted by the National Council or some court or Commission having jurisdiction. The testimony shows that she was never readmitted. If the theory of the Commission that the residence of the child is that of the father this woman was a resident of the state of Kansas until she became of age, 18 years old, and she was also a citizen of the State of Kansas and we say that she is on several of the pay rolls of the Cherokee Nation without authority of law because she was never readmitted and we can not see how the Commission can, under the law, admit her to citizenship at the present time.

Under the act of June 10 1896 jurisdiction was given to admit citizens of the Cherokee Nation but under the present law it is the duty of the Commission to enroll those who have been legally admitted and recognized as citizens of the Cherokee Nation prior to this time.

Respectfully submitted,

W W Hastings
JCS
Attorney for the Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee D-461.

Muskogee, Indian Territory, November 26, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, granting the application of Goleyhugh Harlow for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Peggie A. Harlow, and his seven minor children, Myrtle, Walter, Alice, James, Joseph, Elick and Beulah M. Harlow, as citizens by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-194.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee D 461.

Muskogee, Indian Territory, December 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated November 20, 1902, granting the application of Goleyhugh Harlow for the enrollment of himself as a citizen by intermarriage, for the enrollment of his wife, Peggie A. Harlow, and for the enrollment of his seven minor children, Bertha, Walter, Alice, James, Joseph, Elick and Beulah M. Harlow, as citizens by blood, of the Cherokee Nation, a copy of which decision was furnished you on November 26, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

(COPY)

D.C. 52909-1906.

Y.P.

DEPARTMENT OF THE INTERIOR

WASHINGTON. FHE.

I.T.D. 1446-1903.

L.R.S.

November 28, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letter of August 1, 1903, in the matter of the application for the enrolment of certain persons as citizens of the Cherokee Nation, including Goleyhugh Harlow as a citizen by intermarriage, in view of the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, appealed from the Court of Claims, the application for the enrolment of said Goleyhugh Harlow is denied. The claims of the other applicants were disposed of in said letter.

The papers in the case have been sent to the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

6 inc. for Ind. Of.

REFER IN REPLY TO THE FOLLOWING
Cherokee
D 461.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 13, 1906.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, granting the application for the enrollment of Goleyhugh Harlow as a citizen by intermarriage of the Cherokee Nation was reversed by the Secretary of the Interior November 28, 1906.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.W-6.
S.W.

IN THE MATTER OF THE APPLICATION OF

Jehosafa Harlow et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Original testimony Sep 28-1900.

Memo of application Sep. 28-1900

Marriage license and certificate.

Birth affidavit Bulah M. Harlow

Supplemental testimony Oct 3-1900

Additional testimony Oct 15-1900

" " Feb 26-1907

certificate relative to citizenship

Receipt for testimony

Notice of final consideration 2/27/07

Sup test & order closing test 2/27/07

OCT 14 1907

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900
Acting Chairman

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T?, SEPTEMBER [illegible], 1900.

In the matter of the application of Alta Theurer for the enrollment of herself and children as citizens of the Cherokee Nation; said Theurer being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name, please, madam? A Alta Theurer.
Q How old are you? A 40.
Q What is your post office? A Fort Smith, Arkansas.
Q In what district do you live, claim your residence? A Sebastian County.
Q Do you apply for enrollment for yourself? A Yes, sir, and children.
Q How many children? A Three.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q Do you claim your home in the Cherokee Nation? A Yes, sir.
Q Where? A I claim to be a citizen of the Cherokee Nation.
Q Is there any district or spot in the Cherokee Nation you claim as your home? A Yes, sir, this town.
Q Do you claim Delaware or Cooweescoowee as your home? A Cooweescoowee.
Q How long have you claimed your home in the Cherokee Nation? A I have been in the Cherokee Nation all my life.
Q Were you born here? A Yes, sir, in Sequoyah.
Q You claimed it as your home all your life? A Yes, sir.
Q You are married? A Yes, sir.
Q When were you married? A [illegible].
Q Have you been married more than once? A No, sir.
Q Give me your husband's full name? A [illegible] J. Theurer.
Q He is a white man, is he? A Yes, sir.
Q Is he dead or alive? A Alive.
Q Did you marry him in accordance with Cherokee or United States law? A United States law.
Q Give me your father's name? A George [illegible] Johnson.
Q Cherokee or white man? A Cherokee.
Q Is he dead or alive? A Dead.
Q How long has he been dead? A I think about [illegible] or [illegible] years.
Q Give me your mother's given name, please? A Lavenia.
Q Cherokee or white woman? A White woman.
Q Dead or alive? A Dead.
Q How long has she been dead? A She died when I was three years of age.
Q Your maiden name was Johnson? A Yes, sir.
Q Are you on the roll of 1880? A Yes, sir.
Q And on the roll of 1896? A Yes, sir.
Q From what district were you enrolled in 1880? A I suppose I am enrolled twice in 1880 because my father enrolled me. I enrolled myself in this district.
Q Is your husband living? A Yes, sir.
Q Give me the names, please, of your children? A Mary Emma.
Q How old is this child? A 16.
Q The next child, please? A Lena.
Q How old is she? A 14.
Q The next child? A 13 months old.
Q Her name? A Alta.
Q These children are all living now, are they? A Yes, sir.

1880 enrollment; page 703, #[illegible], Altaria Johnson, Sequoyah.
1896 enrollment; page 544, #3194, Altavera Theurer, Delaware.
1896 enrollment; page 344, #3195, Amy Theurer, Delaware.
1896 enrollment; page 544, #3196, Lena Theuer, Delaware.

Alta Theurer---2.

Q Now, in regard to your residence in Fort Smith, you and your husband have lived together eversince your marriage? A Yes, sir.
Q And have lived there ever since your marriage? A More or less. I have always been in the Territory a month or two every year
Q Have you property in the Territory? A Yes, sir.
Q Your husband is in business at Fort Smith? A Yes, sir.
Q That is his home? A Yes, sir.
Q He is a United States citizen? A Yes ,sir.
Q And exercises all the rights of a United States citizen? A Yes.
Q And you stay there because it is your husband's home? A Yes, sir.
Q You claim your own political home, at least that is what you calim, in the Cherokee Nation? A Yes, sir.
Q Did you live continuously in the Cherokee Nation until your marriage? A I went to school at Fort Smith.
Q You were only absent from the Nation going to School? A Yes, sir.
Q Have your children ever spent time in the Cherokee Nation? A Yes, sir.
Q Were they born in Fort Smith ? A Yes, sir.
Q Of course it is their home? A Yes, sir.

Interrogatories by W.W. Hastings, Cherokee Representative:

Q When did you first acquire property in the Cherokee Nation? A When my father died he had an estate.
Q That estate was wound up? A No, sir, the estate was not wound up because one of my brothers was just of age this summer.
Q You got your part out of the estate? A No, sir, I have not taken it.
Q You do not mean to states that for the past 15 years that estate has been in a course of being settled? A I left my interest to his wife.
Q You never claimed any interest in it? A Yes, sir.
Q When did you acquire any other property aside fromthat you have mentioned? A I suppose that is about since 1882 I had some property.
Q What was the character of that property? A I have farms.
Q Where? A I have one out about six miles from here.
Q In what direction? A South I think.
Q In Delaware or Cooweescoowee? A In Delaware.
Q When did you acquire that farm? A I have had it about 16 or 17 years.
Q Getting rents off of it that long? A Yes, sir. I had it made in thename of my children.
Q About 16 years ago? A Yes, sir.
Q Did you make it or purchase? A We bought it.
Q Who of? A I do not remember, my brother was instrumental in it.
Q What was his name? A Dr. Frazier.
Q They own that property yet? A Yes, sir.

Com'r Breckinridge:--The applicant applies for the enrollment of herself and three children: She states that she is a native of the Cherokee Nation. She is identified on the rolls of 1880 and 1896, on the latter roll under her married name, and with her children. That she lived in the Cherokee Nation until her marriage in 1882, and since that time she has made her domicile with her husband at Fort Smith, Arkansas, he being in business there and a citizen of the United States, but that during all of this period she has owned properties in the Cherokee Nation and that she has visited the Nation every year and claimed it as her own political home.

Alta Theurer-- 2.3.

Her older children are identified with her on the roll of 1896. They were born in the City of Fort Smith, but have spent more or less time in the Cherokee Nation. They are, of course, both minors. The applicant and these two children will now be listed upon a doubtful card for further consideration, under the status of Cherokees by blood, and when a proper certificate of the birth of the youngest child, Alta, is supplied to the Commission, this child will be listed in the same manner.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

JO Rosson

Subscribed and sworn to before me this 1st day of October, 1900.

Commissioner.

DH62

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 5 [illegible]

Supplemental Testimony to go with D Card #462.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 29, 1900.

Supplemental testimony in the matter of the application of Altie Theurer for the enrollment of herself and children as citizens of the Cherokee Nation:

E. B. Frazier, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name, please? A E. B. Frazier.
Q Your age? A 51.
Q Your post office? A Vinita.
Q You want to give some evidence in the application of Altie Theurer do you? A Yes, sir.
Q In regard to what matter do you wish to give information? A About her citizenship.
Q What point, to establish her marriage or to establish what point?
A To establish from the time of their first removal and where she has been.

Q You want to give information in regard t her domicile? A Yes, sir; she has lived in Fort Smith since she was married in 1883, but she never claimed Fort Smith as her home. She has a farm out her I bought and made for her, and she has received the benefit of that ever since I bought it for her. I have been tending her businessher all the time. I am her brother-in-law, and she has been here every year and lived with me every year until she married in 1883. She was away from here going to school until she was grown and lived with me and her father, he lived at Tahlequah.
Q She lived in theNation until she was married? A Yes,sir.
Q Where has she lived since she married? A Right across the line Fort Smith.
Q Living there now? A Yes, sir.
Q Keeping up her interests here? A Yes, sir
Q What you want to say is to substantiate the interest that she has always retained inside the Cherokee Nation? A Yes,sir, she refused to be put upon the census of Arkansa . This last census would not then be put on that list there. She would not register at Fort Smith at all in the census. Her husband does not claim any right at all.
Q Claims to be a citizen of the United States? A Yes, sir.
Q She contends for the citizenship of herself and children in the Cherokee Nation? A Yes, sir.

---oooOOOooo---

J. O. Rosson being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony andproceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J.O. Rosson

Subscribed and sworn to before me this 2d day of October, 1900.

Commissioner.

"R"

D 462

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Alta Therer, for the enrollment of herself and children as citizens of the Cherokee Nation:

Applicant was notified by registered letter on February 11, that her application for the enrollment of herself and children as citizens of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902.

Receipt has been acknowledged of the Commission's letter and the applicant this day, to-wit: the 27th day of February, 1902, appears by her attorney James S. Davenport, of Vinita, I. T.

The Commission: Do you desire to make any statement Mr. Davenport?

Mr. Davenport: In this case the applicant desires to especially call the attention of the Commission to the fact that she appears upon all the authenticated rolls of the Cherokee Nation, and that the proof discloses the fact that she has been recognized all the time by the Cherokee authorities, and has owned property from which she has derived revenue since she was a minor, and that she has spent a portion of each year on said property in looking after said property in the Cherokee Nation, notwithstanding since her marriage to her present husband she has lived in the city of Fort Smith, Arkansas, which is on the border of the line of Arkansas and the Cherokee Nation.

Mr. Hastings: The representatives of the Cherokee Nation deny that the proof shows that she has ever lived for the past several years in the Cherokee Nation, or upon any of these improvements.

The Commission: The attorney for the applicant and the representatives of the Cherokee Nation present, submit this case, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee D 462
(R 741).

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Alta, Mary E., Lena and Alta Theurer as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 28, 1900, Alta Theurer appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself and her minor children, Mary E., Lena and Alta Theurer, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on September 29, 1900. The record further shows that on September 20, 1902, the Commission rendered a decision denying said application and forwarded the same to the Department of the Interior, which decision was approved by the Department on October 22, 1902. Thereafter on September 25, 1903, the Department rescinded its former action in the matter of said application and remanded the case to the Commission for readjudication.

The evidence shows that the said Alta Theurer is a Cherokee citizen by blood and is identified on the Cherokee authenticated tribal roll of 1880; also the Cherokee census roll of 1896. The minor children, Mary E., and Lena Theurer, are identified on the said 1896 roll. The infant child, Alta Theurer, is identified by a birth affidavit made a part of the record herein.

The evidence further shows that the principal applicant was born in the Cherokee Nation and resided therein until 1882, when she was married to one Martin J. Theurer, a white man, and has lived with him in Fort Smith, Arkansas, continuously since that time. The minor applicants were born in said Fort Smith, Arkansas.

The evidence further shows that during the principal applicant's residence outside of the Cherokee Nation, she retained and owned valuable improvements on the public domain of said Nation and has made frequent visits to said nation made necessary by her property interests therein. It further appears that she has not become a citizen of any other government.

It is, therefore, the opinion of this Commission that, following the decision of the Department in the case of Clement G. Clark et al., (ITD. 1370-1903), Alta Theurer, Mary E. Theurer, Lena Theurer and Alta Theurer should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.

Chairman.

(SIGNED). T. B. Needles.

Commissioner.

(SIGNED). C. R. Breckinridge.

Commissioner.

(SIGNED). W. E. Stanley.

Commissioner.

Muskogee, Indian Territory,

this JAN 6 190

IN THE DEPARTMENT OF THE INTERIOR,

Washington.

In the matter of the application for the enrollment of Alta Theurer et al, as citizens by blood of the Cherokee Nation.

Cherokee Enrollment case No. R 741.

Motion For Rehearing and Review.

The Cherokee Nation has newly discovered testimony in the nature of affidavits hereto attached which will show what is expected to be established by witnesses if a rehearing of this case is granted.

In addition to the affidavits the nation expects to show by J. C. Wilkinson now of Vinita I. T. but who formerly resided in Fort Smith, Arkansas and also by C. C. Ayers of Muskogee I. T. that the applicant (Principal Applicant) Alta Theurer has been a resident of Fort Smith Arkansas practically all of her life.

The Nation believes that the testimony will show that she was born in the State of Arkansas where she was raised from childhood and where she received here education; that her trips to Vinita in the Cherokee Nation were merely visits to her sister who was Mrs E. B. Frayser and that she never resided with the said Frayser to make that place her actual home but that such visits were of a temporary nature.

We think the Nation , if given an opportunity, will show that the principal applicant never acquired any property in the Cherokee Nation until about the year of 1900; that she married a citizen and resident of the state of Arkansas about 1883 and has continued to reside in the state of Arkansas since that time and now resides there with her husband; that when she married her husband she took her effect, if she had any in the Cherokee Nation at the time, with her to the State of Arkansas.

Respectfully,

W W Hastings

Attorney for the Cherokee Nation.

"Copy."

United States of America, ÷
Indian Territory, ÷ ss No.
Northern District. ÷

AFFIDAVIT.

In the matter of the enroll- ÷
ment of Alta Theurer, et al. ÷

John J. Caldwell of Vinita, I.T., being duly sworn upon his aoth says: That he is informed and now believes that if the above entitled case is reopened and additional testimony is allowed to be introduced that the following named witnesses will testify to the following facts.

Witness, C. C. Ayers, Muskogee, I. T., a reputable citizen will testify that he is acquainted with Alta Theurer and has known her for mamy years, that he was bron and raised at Ft.Smith.,Ark., and that he has been personally acquainted with her from her childhood, and that the said Alta Theurer has resided from her childhood to the present time at Ft. Smith, Ark., and that he believes that she was born in Ft. Smith,Ark.,and that if the said Alta Theuer has ever resided any where except in Ft. Smith,Ark., he does not know it.

Witness, Wren Couch,of Vinita, I.T., will testify that he was acquainted with the said Alta Theuer about 1878 and 1879 before the said Alta Theurer was married to her present husband and at that time she was a resident of Ft.Smith, Ark.

Witness R.R.Taylor, Ed Lanum and Sam Lanum of Vinita, I.T., will testify that the property interests consisting of some improvements on about 300 acres of land 6 miles southeast of Vinita, I. T. The said Alta Theurer now claims was not improved bythem and they never lived upon said premises at any time, but obtained the same by inheritance about the year 1900. All of the above named witnesses will testify to their personal knowledge that the said Alta Theurer has never resided in the Cherokee Nation,I.T.

The Said John J. Caldwell states that he believes that the above named witnesses will testify substantially to the facts as herein set out.

United States of America, +
Indian Territory, + SS.
Northern District. +

Personally appeared before me, a notary public in and for the Indian Territory, Northern District, the above named John J. Caldwell, to me personally known, and being by me duly sworn upon his oath states that the above and foregoing is true as he is informed and belives, this 9th day of April, 1904.

Notary Public.

My Commission expires
March 18th 1908.

United Statesof America,
Indian Territory

Northern DistrictSS

Edward Landrum of lawful age being duly sworn on oath deposes and says:

"My Name is Edward Landrum and my post office is Vinita I. T. my age 35 years; I have lived within a mile and a half of the place now claimed by Altha Theurer nearly all of my life and I know that the place belonged to my aunt Rachel Buffington who went to Colorado in about the year 1884 and mortgaged the place to E. B. Frayser and never redeemed it and Frayser finally got the place in about the year of 1886. E. B. Frayser owned the place up until the time the Curtis Bill passed after which time it was generally known as the Frayser place until Mrs Frayser died some time along about the year of ~~[illegible]~~ 1900 when Mrs Frayser, who was a half sister to Altha Theurer died. Mrs Theurer laid claim to the place as an heir to her sisters estate and in that way acquired the place she nw owns in settlement had with Frayser after Mrs Frayser's death

I have lived in the neighbbrhood of the plawe now claimedby Altha Theuerer all of my life and if Altha Theurer ever owned any property in this vicinity prior to the time she got the place she now claims after the death of Mr s Frayser I never knew it

Ed Landrum

Subscribed and sworn to before me this April 16th 1904.

J C Starr
Notary Public.

United States of America,
Indian Territory
Norther District SS

Sam. Landrum of lawful age being duly sworn on oath says:

"My name is Sam Landrum, my post office, Vinita I. T. my age is 38 years; I am acquainted with Altha Theurer and have known her for the past fourteen years, and I have made inquiry as to where she has lived for the past fourteen years and have found that she has been livinging in Fort Smith Arkansas during that time. I have been living within a mile and a half of the place claimed by Altha Theurer since 1868; my ~~plc~~ place joins ~~that~~ Fred Frayser place now.

My Aunt owned the place and when she left the country in about 1884 she afterwards sold the place. She mortgaged it to Frayser and never redeemed it and he got possession of it about 1886 and he always claimed it as his up until about the time of his wifes death in about the year of 1899. Fraysers First wife was a half sister to Altha Theurer and when Mrs Frayser died about the year of 1899 or 1900 Mrs Theurer laid claim to a part of this place as an heir to her half sisters estate and it is my understanding that Mrs Theurer acquired this place about the year of 1900 or as soon after the passage of the Curtis Bill making it unlawful for citizens to hold more than their share of land as a settlement of her claim could be made.

During all of the time I lived in this neighborhood since 1868 I never knew of Altha Theurer owning any farm or improvements except the one she now claims which she acquired about the year of 1900; I never knew of her owning any other property.

I knew E. B. Frayser prior to 1880 when he lived on what iskn own as the Ketchum place.

Sam Landrum

Subscribed and sworn to before me this April 16, 1904

J C Starr
Notary Public.

United States of America,
Indian Territory
Northern District SS.

L. C. Couch of lawful age being by me duly sworn according to law upon his oath deposeth and sayeth:

"My Name is L. C. Couch, my post office is Vinita I. T. and my age is 44 years: I am acquainted with Altha Theureer and was acquainted with her when her name was Altha Johnson; have known her for the past twenty-five years; I became acquainted with her along about 1878 or 1879. She was staying at Doctor Fraysers in Vinita I. T. when I became acquainted with her and she stayed with Fraysers family some six or eight months and then went back to Fort Smith. I have never known of her staying as much as a year in this part of the Indian Territory since I became acquainted with her. She went from the Cherokee Nation to Fort Smith Arkansas and married a citizen of that state along about 1880 or 1881 and I have never seen her in the Cherokee Nation very much since then. I knew of one time that she came up to Vinita on a visit. She has made short visits to Vinita since she has been resided in Fort Smith Arkansas.

I am acquainted with the farms around Vinita and I know the farm now claimed by Altha Theurer and it has been my understanding that Doctor Frayser's first wife died in about the year of 1899; that she was a half sister to Altha Theurer and that in the settlement of Mrs Frayser's estate Altha Theurer acquired the farm she now claims as an heir to her half sisters estate about the year of 1900.

L C Couch

Subscribed and sworn to before me this 16th day of April 1904

J C Starr
Notary Public.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

[illegible]

Cherokee D 462.

Muskogee, Indian Territory, November 11, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, of date September 20, 1902, rejecting the application of Alta Theurer for the enrollment of herself and her three minor children, Mary E., Lena and Alta Theurer, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on October 22, 1902.

Respectfully,

Acting Chairman.

4

TAMS BIXBY
THOMAS B. NEEDLES
[illegible]
W. E. STANLEY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D-462.

Muskogee, Indian Territory, January 7, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 6, 1904, granting the application of Alta Theurer for the enrollment of herself and her three minor children, Mary E., Lena and Alta Theurer, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

~~Chairman.~~

Enc. D-19.

SEYMOUR RIDDLE
ATTORNEY AT LAW

Vinita, I. T. April 9th, 1904.

Mr. W. W. Hastings,
Tahlequah, I.T.

Dear Sir:-

Your letter received. I herewith enclose you a affidavit of Mr. John J. Caldwell showing the nature of the testimony which he believes he will be able to produce if the Theurer case is reopened. We hope you will be able to see your way clear to advise that this case be reopened and further testimony introduced.

Very respectfully yours,
Seymour Riddle

COMMISSIONERS
TAMS BIXBY.
THOMAS B NEEDLES
C R BRECKINRIDGE

WM O BEALL,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee R-741.

[illegible]

Muskogee, Indian Territory, April 21, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of April 14, stating that within ten days the Cherokee Nation will file a motion to reopen the case of Alta Theurer et al., Cherokee R 741, and asking that the applicants in this case be not scheduled upon the Cherokee final roll before the Nation's motion has been received.

In reply you are advised that the Commission's decision enrolling these applicants was forwarded to the Secretary of the Interior for review on January 25, 1904. A motion to reopen this cause should, therefore, be forwarded to the Secretary.

Respectfully,

Chairman.

MD 9/1

COMMISSIONERS:
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

WM. O. BEALL,
SECRETARY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee R-741.

Muskogee, Indian Territory, May 11, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated January 6, 1904, granting the application for the enrollment of Alta, Mary E., Lena and Alta Theurer as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on May 2, 1904.

Respectfully,

Chairman.

WCH

DEPARTMENT OF THE INTERIOR,
WASHINGTON

FHE

I.T.D. 3723-1904.

2.115

May 18, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Sir:

The Department is in receipt of your communication of April 30, 1904, inclosing certain affidavits, also motion for rehearing and review in the Cherokee enrollment case of Altha Theurer, et al.

You are advised that on May 2, 1904, the Department approved the decision of the Commission to the Five Civilized Tribes, holding that the applicants in said case should be enrolled.

The papers submitted by you have been forwarded to the Indian Office to be filed with the record in the case.

Respectfully,

T. Ryan

Acting Secretary.

..OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE ENROLLMENT

W. W. HASTINGS, ATTORNEY
J. C. STARR, SECRETARY

~~Muskogee~~ IND. TER.

J. C. Wilkinson, Vinita I.T. — [illegible]

D 462

IN THE MATTER OF THE APPLICATION OF

Etta Shurer et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Sept 28 1900
B Memo. of application Sept 28 1900.
C. Supplemental testimony Sept 28 1900
D. Affidavit of birth Etta Shurer
E Notice of final consideration 2/27
E

Order closing testimony 2/27/02

Transferred to Cher

See Re [illegible]

Cher D 463

Cher D 463

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1908
Acting Commissioner

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I. T., SEPTEMBER 28th, 1900.

IN THE MATTER OF THE APPLICATION OF Verda A. Young for the enrollment of her daughter, Alta May Shoemake as a citizen of the Cherokee Nation, and Verda A. Young being sworn and examined by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Verda A. Young.
Q What is your age? A Twenty seven.
Q What is your Postoffice? A Vinita.
Q What is your district? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A No sir.
Q For whom do you apply for enrollment? A My little girl.
Q What is her name? A Alta May Shoemake.
Q What is her father's name? A John Wesley Shoemake.
Q Is he a citizen by blood? A Yes sir.
Q Are you married to him? A Yes sir.
Q Have you any certificate of marriage? A Yes sir; I got the certificate lost; Sent it to Tahlequah, and they claim it got burned at Tahlequah.
Q Is there any one here that knows you are married? A Yes sir, but I do not know whether they are about the place.
Q When were you married? A In 1888.
Q Is your husband living? A No sir.
Q Are you a white person? A Yes sir.
Q You do not claim citizenship yourself? A No sir.
Q Why; Have you married again? A Yes sir.
Q A white man? A Yes sir.
Q How old is this child? A Ten years old.
(1896 Roll, Page 828, #8733, Alta May Shoemake, Delaware Dist)
Q Your husband's name did not appear upon the roll of 1880?
A No sir.
Q Have you a certificate of his admission? A No sir; that was before I was acquainted with the family.

The applicant applies for the enrollment of her child, Alta May Shoemake; She avers that she was married to John W. Shoemake in 1888, but presents no certificate of marriage. The records of the Cherokee Nation show that her husband was admitted to citizenship in the year 1888; The Attorneys for the Cherokee Nation contest the validity of his admission, and allege that there was fraud used in securing said admission to citizenship in the Cherokee Nation; Consequently, final judgment as to the enrollment of Alta May Shoemake, ten years of age, will be suspended, and her name placed upon a Doubtful Card, by reason of the protest of the Cherokee Nation, by its representatives; also from the fact that no satisfactory proof of marriage has been presented.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me this 1st day of October, 1900.

COMMISSIONER.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 1 1900
Acting Commissioner

Supplemental testimony to go with D Card #463.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 29, 1900.

In the matter of the application of Altie M. Shoemake for enrollment as a citizen of the Cherokee Nation. She supplements her testimony as follows:

JOHN BILBY, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A John Bilby.
Q What is your age? A 29 years old.
Q What is your post office? A Vinita.
Q Are you a citizen by blood? A No, sir.
Q You know John W. Shoemake ? A Yes, sir.
Q Is he living? A No, sir.
Q Did you know his wife? A Yes, sir.
Q Do you know whether they were married or not? A I do.
Q How do you know it? A I seen them.
Q When was that? A It was, I do not just remember now--1888.
Q Where was it? A Webbers Falls.
Q Who married them? A A Minister by the name of Powell.
Q Did they live together until he died? A Yes, sir.

Ed Bilby, being sworn and examined, testified as follows:

Q What is your name? A Ed Bilby.
Q Are you a brother of this other witness? A Yes, sir.
Q How old are you A 35.
Q What is your post office address? A Vinita.
Q Do you know John W. Shoemake? A Yes, sir.
Q Washe Cherokee citizen? A Yes, sir.
Q By blood? A Yes, sir.
Q Do you know his wife, Altie? A Yes, sir.
Q Do you know they were married or not? A Yes, sir.
Q How do you know that? A I was at the wedding .
Q Are you any relation of ~~[illegible]~~ his mother? A No, sir.
Q Any relation of his widow? A Yes, sir? I am her brother.
Q You saw them married? A Yes, sir.
Q Who married them? A Reverend Powell.
Q What year was that? A 1888 or 89.
Q Did they live together as husband and wife? A Yes, sir.
Q Do you know why she has no certificate of marriage? A I think the minister died shortly after he married them.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and preceding this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 1st day of October, 1900.

T B Needles

Commissioner.

[illegible]

FILED

JUL [illegible] 1902

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 21st, 1902.

In the matter of the application of Verda A. Yount for the enrollment of her daughter Alta M. Shoemake as a citizen by blood of the Cherokee nation.

Supplemental to D-463.

Appearances:

Thomas Owen for Applicant.
W. W. Hastings for Cherokee Nation.

WILLIAM H. SHOEMAKE, being duly sworn, testified as follows:--

Examination by Mr. Owen.

Q. Your name is William H. Shoemake? A. Yes, sir.

Q. Your post office is Webbers Falls? A. Yes, sir.

Q. Do you know Alta M. Shoemake? A. I have known the little girl. I have seen her.

Q. What relation is she to you? A. She is a grand daughter of my brother.

Q. How long have you known her? A. Known her ever since she was a child. Well, I don't know just what district she is living in. She is living not far from Vinita.

Q. Who is her father? A. John Shoemake.

Q. How long has he lived in that part of the Cherokee nation? A. John is dead.

Q. How long has the family lived there. A. I don't know just how long they did live there up where she is now before she was married.

Q. How long has she lived in the Cherokee nation? A. She has lived in the Cherokee nation about 14 years.

Q. How old is Alta M. Shoemake? A. I don't know exactly how old Alta is.

Q. About how old? A. I suppose she might be 10 years old.

Q. Do you know where she was born? A. She was born in Coowescoowee I think.

Q. In the Cherokee nation? A. Yes, in the Cherokee nation. I understood so. I don't know. That has been my understanding. She has lived up there ever since. She came down to our house once.

Examination Byy Mr. Hastings.

Q. When was that? A. That has been three or four years ago. She was around and played in the yard by herself.

Q. Has her mother remarried? A. I think she has. I heard she has.

Q. Do you know where she was married? A. I think she was living in Coowescoowee when she married.

Q. Did she continue to live in Coowescoowee after her marriage? A. So far as I know.

Q. Have you any reason to believe, from personal knowledge or from what you heard, that these people, either the applicant or her mother, has lived outside of the Cherokee nation since they were admitted? A. I have never heard of it. I have seen letters to their people down here, her father in law--I have seen letters stating that they were in the Cherokee nation.

Q. You have no reason to believe they lived out? A. No, sir. I think they were living there all the time.

Jesse O. Carr, being first duly sworn, states that he stenographer [illegible] [illegible] the testimony and proceedings [illegible] and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 21st day of July, 1902.

L. A. Reuter
Notary Public.

D 46[illegible]

IN THE MATTER OF THE APPLICATION OF

Alta M. Shoemaker ✓✓

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Sep 28 ~~1900~~

B Memo of application. Sep 28-1900.

C Supplemental testimony. Sep 29-1900

D Notice of final consideration 3/15/02

Copy [illegible]

[illegible]

E Proof of service of notice 3/15/02

D

[illegible]

10 [illegible] 1904

Alta M. Shoemake

Original jacket transmitted to Muskogee, October 20, 1903.

Cher D [illegible]

Cher D #64

D464

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900
ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 28, 1900.

In the matter of the application of Emery S. Thompson for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Emery S. Thompson.
Q How old are you? A 34
Q What is your post-office? A Claremore.
Q What district do you live in? A Cooweescoowee.
Q Who do you apply for? A Myself.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir
Q By blood or intermarriage? A By marriage.
Q Who do you want to enroll, anybody besides yourself?
A No.
Q Don't want to enroll your wife? A No sir, my wife she left me.
Q Have you got any children? A No sir.
Q When were you married? A In 1897
Q Have you got any certificate of marriage? A Yessir.
(Produces papers)
Q Are you a white man? A Yes sir.
Com'r Needles: The applicant presents certificate certifying that he was married to Miss Sarah Jackson, a citizen of the Cherokee Nation, on the 17th day of November 1897, said certificate signed by Joe [illegible]. Lahay Clerk of Cooweescoowee District.
Q Did you have any marriage license when you married? A Yessir
Q Where is your license? A I lost the license.
Q What was your wife's name before you married her? A Sarah Jackson, I think; that was the ~~xxx~~ way it was put down.
Q How long did you live with her, sometime? A I lived with her about eight months.
As near as I can guess at it.
Q Then did you leave her? A No sir, she left me.

Examined by Cherokee Rep've W.W. Hastings:
Q Where do you live? A I live down close to Claremore.
Q How long have you lived there? A I have lived there somewheres close to 6 years.
Q Did you have a home for your wife when you married her? A Yes sir.
Q Did you take her to your home? A Yes sir.
Q You had a farm did you? A Yes sir, I had a claim.
Q Did she live with you on it? A Didn't have the house finished yet; I was building a house.
Q Eight months after you married you didn't have it finished? A No sir.
By Com'r Needles:
Q What made her leave you? A I don't know exactly what made her leave me, only just what her cousin told me; said she didn't expect to live with me; just going to marry me and live with me a while and then leave me.
Q Marry you long enough to give you a right and then leave you?
A Yes sir.
Com'r Needles: Good natured woman.
Applicant: I thought she was pretty accommodating myself.
Q Was she a full-blood? A No sir, quarter blood I believe.
Q Is she living now? A Yes sir.
Q Close to Claremore? A Yes sir.
Q And you live close to Claremore? A Yes sir.
Q Why didn't you stay until we came to Claremore before you enrolled instead of coming away over here? A We was down at Pryor

Creek; it was just as close to Pryor Creek as it was to Claremore.

By Cherokee Rep've Hastings:
Q How many miles do you live from Claremore? A 10 miles.
Q How far do you live from here? A It is about 30 miles.
Q How far do you live from Chelsea? A Close on to 20 miles.

Examined by Cherokee Attorney Preston C. West;
Q How old is your wife? A She is the same age I was, 27 years old. She is thirty-four now.
By Com'r Needles:
Q Ain't it a fact that you came over here to enroll so as to keep away from your wife and her people, and not let them appear against you; ain't that a fact A I was ~~at [illegible]~~ with them down there at Pryor Creek; we was altogether; and my brother-in-law had to come up here. I have been boarding with a man and working for my board out here.
By Cherokee Rep've Hastings:
Q Was Sarah Jackson ever married before? A Once before I think
Q Who to? A Another man named Williams I think.
Q What was Williams first name? A I don't remember.
Q She never was divorced from Williams was she? A Yes sir; she was divorced from Williams; according to her word; I never seen her divorcement.
By Com'r Needles:
Q What was your wife's name twenty years ago? I reckon her name was Williams then.
By Cherokee Rep've Hastings:
Q What was her name before she married Williams? A Name was Jackson.
1880 roll examined for applicant's wife and was not found.
Q Were you enrolled in 1880? A I don't know whether I was or not
1880 roll examined for applicant and was not found.

Com'r Needles: The applicant presents marriage license certifying that he was married to one Sarah Jackson a citizen of the Cherokee Nation, in 1893; he presents no marriage license; his name is not found upon the census roll of 1896, and the name of his wife is not found upon the authenticated roll of 1880 or the census roll of 1896, although it may be; ~~[illegible]~~ The fact that his name is not found upon the census roll of 1896 and that he files no marriage license or certified copy of marriage license or any proof ~~xx~~ that marriage license was issued, final judgment as to his enrollment will be suspended and his name will be placed upon a doubtful card.

M.D.Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 29 day of September 1900.

Commissioner.

10464

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED T
FILED
JAN 19 1901
ACTING CH

VALLEY PAPER CO

SUPPLEMENTAL TESTIMONY.

D #464.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JANUARY 15th, 1901.

SUPPLEMENTAL TESTIMONY in the Mater of the application of Emery Thompson for the enrollment of himself as a citizen of the Cherokee Nation; said Thompson being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Emery Thompson.
Q How old are you, Mr. Thompson? A 34 years old.
Q What is your post office? A Claremore.
Q In what district do you live? A Cooweescoowee district.
Q Who is it you want to have enrolled, youself and family? A Myself only.
Q Do you apply for enrollment as a Cherokee by blood? A No, sir.
Q White man? A Yes, sir, adopted.
Q Let me see your marriage license and certificate? (Hands paper to COM'R.)

Com'r:--The applicant files an official copy of the records of Cooweescoowee district showing that on the 11th of November, 1893, he was married in accordance with Cherokee law of Miss Sarah Jackson. This will be filed with his case, D. #464, he having already made application for enrollment.

EXAMINATION BY W. W. HASTINGS, Cherokee Representative:

Q Do you know what name your wife goes by now? A No not exactly that I could swear to.
Q Oh, well tell us if you ~~may~~ have got any information? A She is living with her father, I do not know what name she goes by now, but her name would be Thompson.
Q Sarah? A Yes, sir.
Q Has she a child by you? A No, sir, it ain't mine.

BY COMMISSIONER BRECKINRIDGE:

Q You have no copy of the decree of divorce from her former husband? A No, sir.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 17th day of January, 1901.

Commissioner.

"R"

D 464

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Emery S. Thompson, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission on the 27th day of February, 1902, and that he could on said date appear before the Commission in person or by attorney and an opportunity would be given him to introduce any further testimony affecting his application.

The applicant having this day, to-wit: the 27th day of February, 1902, been called three times and failing to respond either in person or by attorney, it is directed that the case be closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Muskogee, Indian Territory, October 28, 1902.

Mr. I. T. Parks,
Executive Secretary,
Tahlequah, Indian Territory.

Dear Sir:-

Please examine the records of the Circuit Court for Cooweescoowee District along about the year 1894, and send me a certified copy of the record of the divorce granted to a woman by the name of Betty, whose sir name is either Williams or Thompson, from her husbands George Williams or Emory Thompson. In order that you will better understand the case, I will give you a statement of it: A white man by the name of William T. Collier has applied to the Commission for enrollment as a citizen by intermarriage. His wife's name is now Betty Collier; He testified that his wife had been previously married first to a man by the name of George Williams, and afterwards to a man by the name of Emory Thompson, and that she sued both of her husbands, Williams and Thompson in the Circuit Court at Claremore, and got divorces from both of them at the same time. Now this man Emory Thompson is an applicant also for enrollment as a citizen by intermarriage. ~~After~~ If she had not been divorced from her former husband, Williams when she married Thompson of course Thompson would not entitled to enrollment, and if she had not been divorced from either of her former husbands when she married Collier, then Collier would be out. If she got a divorce from Thompson and did not get a divorce from Williams, or Collier both Collier and Thompson would be out, and in that event, both marriages would be illegal. This matter is very urgent, and I would be very much pleased if you would send us two certified copies of whatever records you can find. Mention Nos. Cherokee 2752 and Doubtful 464 with your reply.

Yours very truly,

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR [illegible] 1903
CHAIRMAN.

CD 464

AAD.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, Indian Territory, January 24th, 1903.

In the matter of the application of Emery S. Thompson for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-464.

Appearances:

Applicant appears in person.
Cherokee Nation by J. C. Starr.

Emery S. Thompson, being duly sworn, testified as follows:

Examination by the Commission.

Q. Your name is Emery S. Thompson? A. Yes, sir.
Q. How old are you? A. I was born in 1836.
Q. What is your post office? A. Claremore.
Q. You are a white man? A. Yes, sir; I am a white man.
Q. You are claiming citizenship by intermarriage? A. Yes, sir.
Q. The wife through whom you claim was Sarah Jackson?
A. Yes, sir; she told me that was the way she signed her name.
Q. Do you know whether that was her right name or not? Was she ever known as Bettie? A. I don't know.
Q. You were married about 1893? A. '93 is the year we were married in.
Q. She had been married to a man by the name of George W. Williams before you married her? A. Williams is the name, but George, I don't know whether that is it.
Q. You don't know whether they were divorced? A. I never seen the divorce. Her father said she sued for a divorce and gained the suit.
Q. That is the only time she was ever married before?
A. Yes, sir. Her father and her said that.
Q. You and your wife didn't live very long together?
A. No, sir; not very long.
Q. And she left you? A. Yes, sir.
Q. You say she left you? A. Yes, sir.
Q. Did you give her any cause to leave you? A. No, sir; never gave her any cause that I know of.
Q. You don't know why she left you? A. No, sir; I don't.
Q. Has she married since you separated? A. Why, I don't know whether she has or not.
Q. She is said to have married a man by the name of Collier.
A. The people said she married a man by the name of Collier.
Q. She is living with Collier? A. Her father and Collier and her children are living in the same house.
Q. She had some children? A. Yes, sir.
Q. Maggie? A. Yes, sir.
Q. Jasper? A. Yes, sir. One was born when we--- the day she left me.
Q. Have you married since you and your wife separated?
A. No, sir.

Q. You have been living single ever since you separated in 1893? A. Yes, sir.

Q. Have you been living in the Cherokee Nation ever since that time? A. Yes, sir.

Q. Never lived anywhere else? A. No, sir. Just I been out in the states around visiting. I never lived out.

Q. How long have you been out? A. Well, I been out on visits a week or two.

Q. What was the last time you were out? A. Well, it has been two or three weeks ago. I was in Missouri and I was in Kansas and in Arkansas. I was sick.

Q. Where have you been making your home since you and your wife separated? A. I been making my home there with my father and mother close to Claremore.

Q. Your father and mother live near Claremore? A. Yes, sir.

Q. That has been your home? A. Yes, sir.

Q. What did you go up to the states for; to work? A. I was sick this last time.

Q. The first time, did you go there to work? A. Yes, I went up there to work.

Q. Ever vote up there? A. No, sir; never did.

Q. Do you remember your wife's mother's name? Was it Susie Jackson? A. Susie Jackson was her name.

Q. She is living in Cooweescoowee? A. Yes, sir; close to Claremore.

Q. Do you know whether her father's name was James Jackmon?

A. She died before they moved to Cooweescoowee. It was in Delaware she died.

Q. What was her father's name? A. James.

Q. Was he a white man? A. He was a white man.

Q. How old would your wife be; about the same age as you?

A. Yes, that is what she said.

Q. You never knew her as Bettie? A. No, sir.

Q. You don't know that she had that name? A. No, sir; I don't.

Q. She always told you it was Sarah? A. Yes, sir. I been acquainted with them ever since I been in the Territory, 18 or 20 years.

Q. Did she have any sisters? A. She had two sisters.

Q. Any of them named Bettie? A. One of them is named Lettie.

Examination by Mr. Starr.

Q. Where were you and your wife living at the time this separation took place? A. Why, we lived close to--we lived right where they live now.

Q. Where is that? A. Claremore; oh, about 10 miles from Claremore, 10 miles from Pryorcreek--

Q. Between Claremore and Pryorcreek? A. Yes, sir. And pretty hear the same distance from Adair.

Q. Were you living on a place of your own? A. We were living on her father's place.

Q. Any one else live with you there at the time? A. Her sister and her man, Will Duncan, my uncle George Oaks.

Q. All living in the same house? A. Yes, sir. I don't believe we lived altogether at the same time. I pretty near forget whether we lived together all the same time.

Q. Where did your wife go? A. She went down to her sister's.

Q. How far from where you were living? A. I don't know exactly. As near as I can guess at it about a mile and a half or a mile.

Q. You say one child was born the same day she left? A. Yes, sir; she left on Sunday. We all went down to her father's, her sister lived there. That was her father's place where she used to live. Her sister come up there and we all went there.

Q. Went where? A. To her father's house where she had been living.

Q. You went with her sister? A. Yes, sir. Then she went down to her sister's that night and never told me she was going. She never come back. The next morning she was taken down sick. Her father had to go and get a doctor.

Q. Did you go to see about her when you heard she was sick?

A. No, they told me she had left me.

Q. Who told you? A. My uncle called me to one side. I said I didn't believe it. I said she just went down there until she got well.

Q. What did you do? A. I didn't do nothing only stayed up there and keep house.

Q. How long did you stay up there and keep house? A. I don't know exactly how long it was; two weeks or more.

Q. Your wife was sick down to her sister's? A. Yes, sir.

Q. You never went to see her? A. Well, I was down there once.

Q. What did you go there for? A. Her father come to see if I would take her back. He told me he wasn't able to take care of her and the child. I told her I would take her back if she would sign an agreement that she left me and if I would take her back she wouldn't hold any interest in the place that I was making. If she would sign a paper of that kind, that she left meand---that is I was to have all my labor that I done on the place. Well, she said she would.

Q. Did she sign the agreement? A. No, she wouldn't sign it.

Q. So you wouldn't live with her any more? A. Afterwards I felt sorry and told her daddy to tell her if she would come back home she could come and needn't sign it.

Q. Did you go to see her and tell her to come back? A/ I was down there. I don't know how long after the child was born. It was several days. Yes, I was down there.

Q. Did you try to get her to come back? A. No.

Q. You never made any effort? A. No, I never tried to get her to come back.

Q. Didn't you have some trouble about this place before she went down there? A. No, sir; I didn't have any trouble. I was building a house on it.

Q. Now, wasn't there some trouble about this place before the separation took place? A. Not that I know of.

Q. You swear that, now, do you? A. Yes, sir.

Examination by the Commission.

Q. Now, do you mean to say that you and your wife weren't separated at the time this child was born? A. Why, she wasn't living with me. She went home with her sister.

Q. You say she went down on a visit to her father's? A. She never come back.

Q. Didn't you go with her? A. Yes, sir.

Q. Were you separated then? A. We were living together.

Q. That was Sunday? A. Yes, sir.

Q. When was the baby born; that same night? A. That same night.

Q. You went back and kept house there alone? A. Yes, sir.

Q. And left your wife there sick? A. Yes, sir.

Q. And you ~~xxxxxx~~ don't know why she left you? A. No.

IT IS ORDERED: That copies of this testimony be filed with and made a part of the record in Cherokee D-[illegible], and it is further
ORDERED: That a copy of the testimony in Cherokee #[illegible], and also a copy of the decree of divorce between George W. Williams and his wife Bettie (or Sarah), be filed with this case.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 11th day of April, 1903.

Samuel Foreman
Notary Public.

THE [illegible] OF THE APPL

Emery Z. Thomas

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony Sep 28-1
B. Memo of application Sep 28-1
C. Marriage license and certificate
D. Supplemental testimony Jan 15-
E. Certified copy of marriage record.

[illegible]

[illegible]

F. Notice of final consideration
G. Order closing testimony

OCT 16 1907

Enc F-10

Letter [illegible]

Cher D 465

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D465

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT [illegible] 1900
ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 26, 1900.

In the matter of the application of Catherine Wasson for the enrollment of herself and child as Cherokees by blood and her husband as a Cherokee by intermarriage; being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q Give your full name, please? A Catherine Wasson.
Q How old are you? A 45.
Q What is your post office? A Wasson.
Q In what district do you live? A Cooweescoowee.
Q Who is it now you want to have put on the roll, yourself? A Myself and three children, I reckon, if I can enroll for one that is married.
Q You can't enroll one that is married, you can apply for the others. A Well I want to apply for myself and husband and one child.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A 1/16 I think.
Q Your husband a Cherokee or a white man? A White man.
Q How long have you lived in the Cherokee Nation? A All my life except I was back and forth sending my children to school.
Q Only in a temporary way? A Yes, sir.
Q What was your father's name? A William England.
Q He dead or alive? A He is dead.
Q Your mother's name? A Elizabeth.
Q She dead or alive? A She is dead.
Q When did you marry? A I married in 1869 first.
Q Is your husband the father of the children you apply for now?
A No, sir, he is dead.
Q When did he die? A He died in 1873 or 1874.
Q When did you marry again? A I married in 1875.
Q Is your husband dead? A No, sir, he is alive.
Q Your present husband? A Yes, sir.
Q You married in 1875 to whom? A Fleming H. Wasson.
Q And he is still living? A He is living.
Q Then you are on the roll of 1880 as a Wasson? A Yes, sir; yesterday they couldn't find it.
Q From what district were you enrolled in 1880? A Cooweescoowee, it ought to be.
Q How old is your husband now? A 65.
Q He has lived with you ever since you were married, has he? A Yes, sir.
Q Where is he at this time, at home? A He is at home, he is at the post office down in town.
Q Give me now the name of your child? A Mattie May, 17 years old.
Q Living now, is she? A Yes, sir.
Q You are now on the roll of 1880? A I don't think we are, we ought to be, I don't know what reason we were not, my husband I thought enrolled us; he came down here for that purpose.
(On 1896 roll, page 585, No. [illegible], Catherine Wasson, Delaware district. Fleming H. Wasson on 1896 roll, page 585, No. 584, Fleming H. Wasson, Delaware district. Mattie May Wasson on 1896 roll, page 585, No. 3432, Mattie May Wasson, Delaware district.)
Q If you were absent in 1880, where could you have been and for what purpose? A I guess that was when I would be out sending the children to school.
Q How long an absence did you make about that time? A We were in and out I guess for four or five years.
Q Where did you go? A About six miles from where we lived, moved into Chetopa.
Q Across the Kansas line? A Yes, sir, to send the children to school.

Q Did you keep your property back in the Territory? A Yes, sir.
Q You then just stayed there for the time being? A Yes, sir.
Q When did you move out of the Territory in order to school your children? A I guess it was in 1880, we came back here.
Q and you have been staying all the time in the Nation since 1880?
A Yes, sir.
Q Did you derive your income from your property back in the Nation? A Yes, sir.
Q You never moved out to live at any time? A No, sir.
Q So that what you lived on when you were outside was the income you derived from that property? A Yes, sir.
Q Your husband vote on the outside or do anything of that sort?
A No, sir.
Q Did he engage regularly in business? A No, sir, he had a business in the Territory.
Q Who here now knew you all that time and knew that you lead that kind of live? A Claud Shelton for one; he knows (indicating.)

Randolph Ballard, being sworn and examined by Commissioner Breckenridge, testified as follows:
Q Give your name, please? A Randolph Ballard.
Q Your age? A 48.
Q You are one of the witnesses here of the Cherokee Nation?
A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q You know this lady here, Mrs. Wasson? A Yes, sir.
Q And her husband? A Yes, sir, I have seen him.
Q How long since you first knew them? A I expect it has been about twenty years, I reckon.
Q Did you ever hear that they had taken the children over across the Kansas line at any time? A No, sir, I didn't, I just heard them talking about them moving across over to Chetopa.
Q Does that mean across the Kansas line? A Yes, sir.
Q Did they keep their property, sell out here, and go there like they had abandoned the Territory? A No, sir, not that I know of.
Q Then later when the children has grown up did they all move back again? A I don't know.
Q They are back here? A I see them now.
Q They kept property all the time, did they, in the Cherokee Nation? A Yes, sir, I guess they did, that is, a farm.
Q You just heard of their going over there, you didn't hear of their breaking up there possessions here and abandoning the country?
A Yes, sir, I didn't hear of anything of that kind.

Catherine Wasson, recalled, testified.
Mr. J. L. Baugh, representative of the Cherokee Nation: Where were you married at? A I was living in the Nation and we went to Chetopa and got married.
Q Your husband a white man? A Yes, sir.
Q Married under the Cherokee law? A I wasn't for he is a citizen; Jeff McGee married us, he was a citizen and I was.
Q Was he a citizen prior to your marriage? A Yes, sir.
Q Was he married to another Cherokee lady? A Yes, sir.
Q Has he got his license for the former marriage? A He sent for it at Tahlequah, but he didn't get them when I left home.
Commissioner Breckenridge: You say you and your husband were married according to law? A Not this husband, he was married to a former wife according to Cherokee law.
Q You haven't the Cherokee license for his first marriage with you? A No, sir.
Q Do you think your husband got it? A Yes, sir.
Q Was your former husband's former wife dead when you and he married? A Yes, sir.

Catherine Vaughn - 2.

Q Were you ever married before you married him? A Yes, sir.
Q Your former husband was dead, was he? A Yes, sir.
Q Did either you or your husband have children by your first marriages when you first went up to Kansas? A I did.
Q So that you went up with children of your own? A Yes, sir, my children.

The applicant applies for the enrollment of herself, her husband and one child, a minor. She states that she is a native of the Cherokee Nation and has lived in the Cherokee Nation all her life except when living a few miles across the Kansas line beginning some twenty years or such matter ago, and they were temporarily domiciled there in order to educate their children. They retained their property here and her husband continued to cross and look after his Cherokee property. She was married to her present husband in 1875, and they returned permanently to the Cherokee Nation about 1890 and have lived here without interruption since. It appears from her own and other testimony set forth in the record that she failed to be recorded in 1880 through no fault of her own, and the same is doubtless true of her husband. She is identified on the roll of 1896, and she will be listed now for enrollment as a Cherokee by blood. Her child, Nettie May, is identified with her on the roll of 1896, is living now, and this child will be listed for enrollment as a Cherokee by blood. The claim of her husband for enrollment is based upon the alleged previous marriage to a Cherokee woman, at which time he procured a license and certificate. His present marriage did not, of course, require that ceremony. He is identified on the roll of 1896, but to await the production of the original or an official copy of his Cherokee license and certificate of marriage, he will at present be placed upon a doubtful card.

* * *

Edward C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Edward C. Jones

Sworn to and subscribed before me this the 1st of October, 1900.

C R Breckinridge
Commissioner.

"R"

Cherokee D 465

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Fleming H. Wasson for the enrollment of himself as a Cherokee citizen.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902 that his case would be taken up for final consideration by the Commission on the 27th day of February 1902. He this day appears before the Commission and requests that same be taken up and by agreement with the representative of the Cherokee Nation present the same is done.

FLEMING H. WASSON, being first duly sworn and being examined testified as follows:

BY COMMISSION:

Q Whatis your name? A Fleming H. Wasson.

Q How old are you? A 66.

Q Where do you live? A I live at Wasson post-office, about 6 miles this side of the line.

Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.

Q Do you submit your case to the Commission for final consideration? A Yes sir.

BY COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence of record.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

Cher D 465

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 2, 1902.

In the matter of the application of FLEMING H. WASSON, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

FLEMING H. WASSON, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Fleming H. Wasson.
Q What is your age at this time ? A Sixty six.
Q What is your post office address ?
A My post office address now is Welch.
Q Are you the same Fleming H. Wasson who made application to this Commission for enrollment as an intermarried citizen on September 28, 1900 ? A Yes sir.
Q What was your Cherokee wife's name ? A Catherine Goddard.
Q Is she living ? A Yes sir.
Q When were you and she married ? A About 1877, I think.
Q Were you ever married prior to your marriage to her ?
A Yes sir.
Q How many times were you married before you married her ?
A Once only.
Q Was your first wife a white woman ? A No sir, a white woman.
Q Were you married to your first wife under a Cherokee license ?
A Yes sir.
Q What was her name ? A Her name was Millie Van Norman.
Q Was your first wife ever married prior to her marriage to you ?
A Yes sir, she was married to a man named Van Norman.
Q Was he living or dead when you married her ?
A Dead.
Q Did you and your first wife live together from the time you were married up till her death ? A Yes sir.
Q After her death you married your last wife ? A Yes sir.
Q Did you marry your last wife under a Cherokee license ?
A No sir. We married up in Chetopa.
Q Just married by a preacher ? A Yes sir.
Q You and your last wife have lived together from the time you were married to the present time ? A Yes sir.
Q Were living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q How long have you lived in the Cherokee Nation ?
A Ever since about a year before I married my first woman. I moved out when I married my second woman; we went out with the children; we moved to Chetopa to school them, she had two children.
Q When did you move to Chetopa ?
A The next year after I married her.
Q When did you marry her ? A In 1877.
Q You married your last wife in 1877 ? A Yes sir.
Q How long after you married before you went to Chetopa, Kansas ?
A About a year.
Q Did you take your wife and her children there ? A Yes sir.
Q How long did you stay in Chetopa, Kansas ?
A Eight or ten years.
Q You were living there when the 1880 roll was made ?
A Yes sir.
Q You were not on the 1880 roll ? A No sir.
Q Was your wife on the 1880 roll ? A I think so; I am not certain.
Q About what year did you come back to the Cherokee Nation ?
A I don't remember; about ten or twelve years ago.
Q Have you lived in the Cherokee Nation all the time for the past ten years ? A Yes sir.

Q Has your last wife lived here in the Cherokee Nation with you for the past ten years ? A Yes sir.
Q Have you and she got any children ? A Yes sir.
Q How many children ? A Two.
Q They are your children by her ? A Yes sir.
Q Are they still under age ? A No sir, they are both grown. One is twenty one and the other is eighteen.

E.C.Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 11, 1902.

B C Jones
Notary Public.

Cherokee D-465.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Fleming H. Wasson as a citizen by intermarriage of the Cherokee Nation.

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DECISION.

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The record in this case shows that on September 28, 1900, Catherine Wasson appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of her husband, Fleming H. Wasson, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 25, 1902, and on October 2, 1902. The other parties to the application are differently classified and are not included in this decision.

The evidence shows that Fleming H. Wasson, a white man, was lawfully married, under authority of a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation, on June 25, 1873, to Mary Varnerman, a citizen by blood of the Cherokee Nation. Applicant's said wife died soon after their marriage. The name of the said Fleming H. Wasson cannot be found on the Cherokee Authenticated Tribal Roll of 1880 because at the time that roll was made, and at various other times, for short periods, the said Fleming H. Wasson was in the State of Kansas having his children educated, retaining, however, his property in the Cherokee Nation and deriving his income from his business in the Indian Territory. The said Fleming H. Wasson is identified on the Cherokee Census Roll of 1896.

Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495) provides for the enrollment of Cherokee citizens, "with such intermarried white persons as may be entitled to citizenship under Cherokee laws".

Section 666 of the Compiled Laws of the Cherokee Nation (1892) is as follows:

> "Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of hisor her rights acquired under the provisions of this act shall cease".

The evidence in this case shows that the applicant secured rights of Cherokee citizenship through intermarriage with his first wife, Mary, and that subsequent to her death he married his present wife, Catherine, a Cherokee citizen by blood.

The evidence further shows that Fleming H. Wasson has lived with his said wife in the Cherokee Nation continuously since 1890, up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Fleming H. Wasson should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

C.R.W. Cherokee 9999

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Fleming H. Wasson, as a citizen by intermarriage of the Cherokee Nation.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, September 28, 1900, Catherine Wasson appeared before the Commission to the Five Civilized Tribes and made application for her husband, Fleming H. Wasson, as a citizen by intermarriage, and for the enrollment of herself, et al., as citizens by blood of the Cherokee Nation. The application for the enrollment of the said Catherine Wasson, et al., as citizens by blood of the Cherokee Nation has been heretofore disposed of and their rights to enrollment will not be considered in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 26, 1902, October 2, 1902, and January 2, 1907.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Fleming H. Wasson, a white man, was married in accordance with Cherokee law June 25, 1873 to his wife, Mary Wasson , nee Vannorman, since deceased, who was at the time of said marriage a recognized citizen by blood of the Cherokee Nation. Said Fleming H. Wasson and Mary Wasson resided together as husband and wife and continuously lived in the Cherokee Nation until the death of Mary Wasson in the year 1874; that the said Fleming H. Wasson subsequent to her death, was married to his present wife, Katherine Wasson, nee England, who was at the time of said marriage a recognized citizen by blood of the Cherokee Nation, and whose name appears upon the approved partial roll of citizens by blood of the Cherokee Nation, opposite number 27622. The evidence further shows that the name of said Fleming H. Wasson and his wife, Katherine Wasson cannot be found upon the Cherokee Authenticated tribal roll of 1880, for the reason that at the time said roll was made and at various other times for short periods the said Fleming H. Wasson was in the State of Kansas educating his children, but retained his property in the Cherokee Nation, and derived his income from his business in the Indian Territory. The said Fleming H. Wasson and his wife, Katherine Wasson are identified on the Cherokee Census roll of 1896.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the case of Daniel Red Bird, et al., vs. the United States under the provision of Section 21 of the Act of Congress approved June 28, 1898, (30 Stat., 495), Fleming H. Vasson is entitled to enrollment as a citizen by intermarriage of the Cherokee Nation, and his application for enrollment as such is accordingly granted.

SIGNED Tams Bixby.
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 16 1907

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:

Cherokee D-465.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Catherine Wasson for the enrollment of her husband, Fleming H. Wasson, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-218.

REFER IN REPLY TO THE FOLLOWING:
Cherokee 9999

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 17, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 16, 1907, granting the application for the enrollment of Fleming H. Wasson as a citizen by intermarriage of the Cherokee Nation.

Respectfully,

Commissioner.

Enc I-12
HPI

THE MATTER OF THE APPLICATION OF

Fleming H. Wasson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 28-1900.
B. Memo of application Sep 28-1900.
C. Certified copy of marriage record.
D Notice of final consideration 1/2
E Order closing testimony, Feb. 25, 1902

See Cherokee docket 3704

Cher D 466

Cher D 466

Filed with Arthur D. Smith D.469.

Department of the Interior.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Pryor Creek, I. T. September 13th, 1900.

In the matter of the application of Porlina Herrin for enrollment as a citizen of the Cherokee Nation. The said Porlina Herrin being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Porlina Herrin.
Q What is your age? A Fifty two.
Q What is your postoffice address? A Pryor Creek.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q By blood? A Yes sir.
Q What degree of blood do you claim? A About one-eighth.
Q What district do you live in? A Cooweescoowee.
Q How long have you lived in the Cherokee Nation? A Ever since 1883.
Q Is your name upon the Cherokee roll of 1880? A No Sir.
Q By what right do you claim citizenship? A By my being on the old settler roll.
Q Are you on the roll of 1896? A Yes sir, I am on the roll of 1896.
Q Were you ever admitted to citizenship by the Cherokee Council?
A Yes sir.
Q Have you a certificate? A No.
Q What proof have you got of your admission?
A Here is Jim King.
BYSTANDER: She was admitted in 1885. I was present at the time.
Q Who do you apply for? A For myself and one child.
Q What is the name of the child? A Walter H.
Q How old is he? A He is ten years old.
Q When did you say you came to the Cherokee Nation? A 1883.
Q Have you lived here since that time? A Not all the time, I moved back in 1891.
Q How long did you stay then? A I have been here ever since.
Q Where did you move away to at the time you resided in the States?
A I married a white man.
Q Very well, but how long did you live in the states before you moved back to the Cherokee Nation?
A I lived from the time I was born until 1883.
Q Then how long did you live in the Cherokee Nation before you moved back? A I came back and got on the roll in 1883, and my man went back and before he got his business wound up he died, And after he died I moved to the Territory.
Q When was that 1891? A Yes sir 1891.
Q Did you live in the States from 1883 to 1891? A Yes sir.
Q What state? A Arkansas.
Q You have been living in the Cherokee Nation ever since 1891?
MR. HASTINGS: (Representative of the Cherokee Nation)
Q Your husband was a white man? A Yes sir.
Q How long did you stay here in 1883 when you came back?
A I came back in August and went back in September.
Q About a month? A Yes sir.
Q You heard they were going to draw their money in 1891 and you came back to the country? A No I didn't know they were going to draw any money. I just moved back.

Q Your husband was a citizen of Arkansas and you owned a farm there? A Yes sir.
Q You owned the farm up until 1891? A Yes sir.
Q What part of Arkansas did you live in? A Hot Springs County, Bismark was the postoffice.

(on Roll 1896, page 184, No. 2456. Pauline Harrin, Cooweescoowee District.
(On 1896 Roll Walter H. Harrin, page 184, No. 2460, Cooweescoowee District.
Q Is Walter H? Harrin living with you? A Yes.
Q Where was he born? A In Arkansas.
Q And he came with you from Arkansas the last time? A Yes sir.

The name of Pauline Harrin appears upon the Census roll of 1896, and the name of her son Walter H appears upon the said roll. She avers that he was admitted to citizenship by the Cherokee authorities in 1883, but presents no certificate of admission. She testifies that she has not resided in the Cherokee Nation longer than since 1891. Final judgment as to the application of the said Pauline or Paulina Harrin will be suspended and her name will be placed upon a doubtful card awaiting the presentation to this commission of a certified copy of the act admitting her to citizenship in the Cherokee Nation, and also as to further proof as to residence.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in the foregoing cause and that the foregoing is a correct transcript of his stenographic note thereof.

Wm. S. Wellshear.

Subscribed and sworn to before me this 14th day of September A. D. 1900.

T. B. Needles,
Commissioner.

I, Margaret Crutsinger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy and that same is a true and complete copy of the original transcript.

Margaret Crutsinger.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., September 27, 1900.

D. 326.

In the matter of the application of Pauline E. Herring, (Paulina Herring)

Additional Testimony.

Paulina E. Herring, being sworn and examined by Commissioner Breckinridge, she testified as follows:

Q Give me your full name? A Paulina E. Herring.
Q How old are you? A 53 years old.
Q What is your postoffice? A Pryor Creek.
Q In what district do you live? A Cooweescoowee.

Q Who is it you want to have put on the roll, yourself? A Yes, sir. and one child.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here nearly ten years.
Q How did you acquire your citizenship as a Cherokee, by admission? A Yes sir.
(The applicants presents an official copy of an act of the Cherokee Commission on Citizenship admitting, September 3, 1883, certain persons to citizenship, and among them appears the name of Paulina Herring. This is recognized as official evidence of the fact.)
Q That is your name , is it, madam? A Yes sir.
Q Under that admission you came here some ten years ago? A Yes sir.
Q And you have lived here ever since? A Yes sir ever since.
Q When were you married? A I have been married about thirty-five years.
Q What is your husband's name? A E. W. Herring.
Q He dead or alive? A He is dead.
Q What is your father's name? A John K. Allen,
Q Dead or alive? A He is dead.
Q Your mother's name? A Milinda.
Q She dead? A Yes sir.
Q Give me the name of your child? A Walter H. Herring.
Q How old is that child? A 9 years old.
Q He is living now is he? A Yes sir.

The applicant is found to have made her application September 13, 1900, and her card is D. 326, but as she presents official evidence in her certificate of admission at this time, what she states now will be preserved as additional testimony, and attention is also called to the Cherokee act of December 4, 1890, set forth on page 128, Report of the Commission in 1899, as affecting her right arising from the time her residence in the Cherokee Nation began. This is cited also in connection with the application for the child.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 29th day of September 1900
C. R. Breckinridge.
Commissioner.

I, Margaret Crutsinger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes, I made the foregoing copy and that same is a true and complete copy of the original transcript.

Margaret Crutsinger

"R".

D. 386.

Department of the Interior.
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Pauline E. Herrin, for the enrollment of herself and son as citizens of the Cherokee Nation:

Appearances:
Applicant present in person;
W. W. Hastings, for the Cherokee Nation.

PAULYNE E. HERRINE, being sworn and examined, testified as follows:

Q What is your name? A Pauline E. Herrin.
Q How old are you? A I am 33.
Q Your postoffice address? A Pryor Creek.
Q You are an applicant before the Commission for enrollment as a Cherokee Citizen? A Yes sir.
Q Is there any statement you desire to make relative to your enrollment?
A My papers is here before the Commission. I have two brothers and one cousin here to testify.

A. C. E. Allen, being sworn and examined, testified as follows:

Q What is your name? A A.C.E.Allen.
Q Where do you live? Vinita.
Q Are you acquainted with the applicant in this case, Pauline E. Herrin? A Yes sir, she's my sister.
Q Same father and mother? A Yes sir.
Q Were you admitted to citizenship at the same time she claims to have been admitted? A Yes sir the day after, I believe.
Q Were you living in the Cherokee Nation at that time?
A Yes sir.
QDo you know of your own knowledge when the applicant came to the Cherokee Nation? A She came here s in 1883.
Q How long did she remain? A I think she went back to Arkansas.
Q How long did she remain here? A But a short time.
Q About how long?
A I can't say, because at that time I lived at Claremore, and I went back home and left her at Tahlequah.
Q Did she come up to be admitted? A Yes sir.
Q When did you next hear of her being in the Cherokee Nation?
A I think it was about '90, perhaps, when she came back.
Q Do you know why she left the Cherokee Nation and went back to Arkansas?
A She told me she was going back and dispose of their property there and come back.
Q Do you know whether she owned any property here prior to her return to Arkansas?
A Before she returned to Arkansas?
Q Yes. A No sir, she didn't own any before she returned.
Q I mean along in 1883, did she own any property here then?
A No sir, there didn't any of us, because we had just come out to be admitted She didn't acquire any property until she came in 1890. Our father left a farm that belonged to her and me and my niece, when he died.
Q When did he die? A About 1886.

By Mr. Hastings:

Q She just had an heir's interest in that estate? A Yes sir.

The Commission: Is there any further statement you desire to make relative to her case?
A I know I kept that farm until she returned to the Territory, and then I sold it. I was talking to the fellow I sold it to yesterday. He said it was in 1890 or '91. I sold it to Zeno Cox. I sent her her part of the rent all the time, and when I sold it I sent her one third of the proceeds.
Q Did she derive any rent from that farm? A Yes sir.
Q What rent did you pay her in 1887?
A I can't tell you the amount of the rent. I just sold the crop and gave her one third of the proceeds.

JAMES A. KING: being sworn and examined, testified as follows:
Q What is your name? AA James A. King.
Q What is your postoffice address? A T ahlequah.
Q How old are you? A I am 48.
Q Are you acquainted with the applicant in this case? A Yes sir.
Q Are you related to her? A She's my first cousin.
Q Where were you living when she claims to have been admitted to citizenship? A I was living at Tahlequah.
Q Did you see her e there at that time? A Yes sir.
Q How long have you continued to live there?
A Ever since that date.
Q Was she living there during that time, or did she just come to staythere until she was admitted.
A They come and put up a tent over at my father's place. She was there a month. There was a Commissioners' court in session there when she made this application.
Q How long did she reside there? A About a month. I know that they returned back to where they had a home in Arkansas.
Q. When did you next see her in the Cherokee Nation?
A In '91 or '92.
Q Have you seen her here continuously since that time?
A She lived at Tahlequah quite awhile, three or four years, and then moved up to where she lives now; at Pryor Creek.
Q You don't know any thing about this property she claims to have inherited from her father?
A Only what has been told me.
The Commission: Is there any question you desire to ask the witness Mrs. Herrin? A No sir.
Q Is there any other statement you desire to make about this case?
A Nothing more than I have stated.

THOMAS P. ALLEN, being sworn and examined, testified as follows:
Q What is your name? A Thomas P Allen.
Q How old are you? A I am 40 years old.
Q Postoffice address? A Vinita.
Q Are you a brother of the applicant? A Yes sir.
Q Were you admitted to citizenship at the same time she was?
A Yes sir.
Q Did you remain here in the Cherokee Nation? A Yes sir.
Q How long did she remain after her admission to citizenship?
A Well sir, I can't say how long; but she went back down into Arkansas sometime that fall.
Q When did you next see her in the Cherokee Nation?
A The first time I saw her I don't recollect. She was at Tahlequah the first time I saw her, but I can't recollect the date.

Q How many years was it after her admission?
A She was admitted in 1883; and it must have been six or seven years. I can't tell exactly.
Q Did you own any property in the Cherokee Nation when you were admitted to citizenship? A No sir.
Q Did you acquire any property after your admission? A Yes sir.
Q From whom did you receive the peroperty?
A From my father's estate.
Q. Was the applicant given a portion of your father's estate?
A Yes sir.
Q That was the only property she owned here prior to the time she came in 1890 or '91, when she returned?
A I am not sure as to that, I wouldn't say it was the only.
Q That's all you know about? A Yes sir.
The Commission: Is there any question you desire to ask the witness Mrs. Herrin? A No sir.
Q Is ther any ot er statement you want to make about this case?
A I believe not.

Do you submit this case to the Commission for final consideration Mrs Herrin? A Yes sir.

The applicant and representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed, and is reported to the Commission for its final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this February 26, 1902.

T. B. Needles,
Commissioner.

I, Margaret Crutsinger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes, I made the foregoing copy and that same is a true and complete copy of the original transcript.

Margaret Crutsinger.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., SEPTEMBER 29th, 1900.

IN THE MATTER OF THE APPLICATION OF Margaret Highland for enrollment as a citizen of the Cherokee Nation, and she being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Margaret Highland.
Q How old are you? A Twenty four.
Q What is your Postoffice? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir
Q About what degree of blood do you claim? A One fourth.
Q You are on the roll of 1880, are you? A No sir.
Q By what right do you claim citizenship? A We are on all of the other rolls; My grand mother is on the roll of 1880.
Q What is the name of your father? A Michael Highland.

Q Is he living? A No sir.
Q What is the name of your mother? A Nellie Highland.
Q Is she living? A Yes sir.
Q Is she a citizen by blood? A Yes sir.
Q For whom do you apply? A Myself.
(1896 Roll, Page 179, #2312, Margrette Highland, Cooweescoowee)
(1894 Roll, Page 215, #2160, Maggie Highland, Cooweescoowee)

Q What is the reason you say your name is not on the roll of 1880?
A We were in the Choctaw Nation.
Q Where were you born? A In the Creek Nation., at Muskogee.
Q How long did you live in the Choctaw Nation? A About four years
Q Where did you move from there? A Here.
Q What year was that? A 1881.
Q Have you been living here continuously since 1881? A Yes sir.
Q Has your mother been enrolled? A She came down here, and I think you put her on a Doubtful ~~Card~~ Roll.
Q Your mother's name is Highland now, is it? A Yes sir.
Q You came back here with your mother, did you? A Yes sir.
Q Been living here ever since? A Yes sir.

The name of Margaret Highland appears upon the census roll of 1896; also upon the Pay Roll of 1894; Her name does not appear upon the authenticated roll of 1880; consequently, final judgment in the application for the enrollment of herself will be suspended and her name will be placed on a Doubtful Card; Reference is made to, the testimony of her mother, Nellie Highland, "D Card #346".

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me
this first day of October, 1900.

COMMISSIONER.

"R"

D 466

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. February 25, 1902.

In the matter of the application of Margaret Highland, for the enrollment of herself as a citizen of the Cherokee Nation:

Appearances:
James S. Davenport, Vinita, I. T., for the applicant;
W W Hastings, for the Cherokee Nation.

The Commission: Is there any statement you desire to make relative to this case Mr. Davenport ?

Mr. Davenport: I wish to submit the case on the same facts as the Nellie Highland case, Cherokee D 346.

The Commission: It is directed that copies of all the testimony had in the matter of the application for the enrollment of Nellie Highland, whose name appears upon doubtful card 346, be filed with and made a part of the record in this case.

The representatives of the Cherokee Nation, and the attorney for applicant, submit this case to the Commission for final consideration, and it is ordered closed, and reported to the Commission for final decision based upon the evidence now on file, in addition to the evidence of Nellie Highland, which will be made a part of the record in this case.

E. C. Bagwell, on oath states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

--3--

Q. Did you live in town or on a farm? A. In town.
Q. Where did you go from there? A. Urbana.
Q. How long did you live there? A. I don't remember.
Q. About how long? A. Between 3 and 4 years, probably longer.
Q. Did you live in Urbana? A. Yes sir.
Q. What trade did your father follow? A. Blacksmithing.
Q. Did he blacksmith in each of these towns? A. Yes sir.
Q. From Urbana where did you go? A. To Fredonia.
Q. And from Fredonia you came to Tahlequah? A. Yes sir.
Q. In 1882? A. Yes sir.
Q. Up to that time you had never lived in the Cherokee Nation?
A. No sir.

CONCLUSION:

Q. Is this child, Florence V. Payne, your daughter? A. Yes sir.
Q. Is she living? A. Yes sir.
Q. Was an application ever made for your wife? A. No sir.

c10466

MR. WHITE:

Q. You were married after December 16, 1895? A. Yes sir.
Q. And your child was born before September 1, 1902? A. Yes sir.
Q. You are now living in Tahlequah? A. Yes sir.
Q. Have you [illegible] resided [illegible] since your parents' return from Urbana in 1882? A. Not all the time -- I lived at [illegible] awhile.
Q. You [illegible] lived in the Cherokee Nation since the return of your parents? A. Yes sir.

MR. [illegible]:

Q. You came [illegible] the first time in '82, [illegible] return? A. [illegible] first time I was [illegible] not.

FILED
APR 14 1905
COMMISSION TO FIVE TRIBES.

Eula Jeanes [illegible], being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 13th day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes [illegible]

Subscribed and sworn to before me this the 13th day of April, 1905.

Notary Public.

Cherokee-D-466.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 13, 1908.

In the matter of the application for the enrollment of William H. Payne et al. as citizens of the Cherokee Nation.

Principal applicant appears in person and by attorney, William H. White.

Cherokee Nation represented by W. W. Hastings.

COMMISSION.

MR. WHITE:

William H. Payne, being duly sworn, testified as follows:

Q. What is your full name? A. William Henry Payne.
Q. You are the applicant for citizenship in this case? A. Yes sir.
Q. I call your attention to the application of Silas D. Payne, C.D 10393, and ask if you are related to Silas D. Payne? A. I am.
Q. What relation is he to you? A. A brother.
Q. A full brother? A. Yes sir.
Q. I call your attention to the application of one, Mary A. Payne, an application for Cherokee citizenship on C.D. 10392, and ask if you are related to her? A. Yes sir.
Q. What relation are you to her? A. She is my mother.

(Mary A. Payne, the mother of the principal applicant, William H. Payne, is identified upon Cherokee card 10392, and is numbered 30898 upon the final roll, approved by the Secretary of the Interior)

(Silas D. Payne, a brother of the principal applicant, William H. Payne, is identified on Cherokee card 10393, and is numberes 30899 on the final roll, approved by the Secretary of the Interior.)

Q. I will call your attention to a certificate, signed by B. W. Alberty, Assistant Executive Secretary of the Cherokee Nation, attached to the testimony in the case of Silas D. Payne, and ask you who is the William Payne referred to therein? A. My father.

(Mr. White -- I offer this certificate in evidence---"Executive Office, Cherokee Nation, Tahlequah, Indian Territory.
I, B. W. Alberty, Assistant Executive Secretary of the Cherokee Nation, do hereby certify that the name of William Payne, appears, on the Old Settler's Cherokee Roll taken in 1851, page 19, Going Snake District, and that the name of Alice Nave appears on page 81 of said roll, Tahlequah District, as is shown from attested

copy of said roll now in this office.

Given under my hand and the seal of the Cherokee Nation this the 8th. day of December, 1900.

B. W. Alberty,
Assistant Executive Secretary of the
Cherokee Nation.)"

(Comes now the representative of the Cherokee Nation and objects to the introduction of the above certificate, for the reason that it is no evidence whatever of the citizenship of the said William Payne, the alleged father of the applicant in this case, because it is a well known fact that a great many names appear upon the Old Settler's Roll as beneficiaries of that payment who were not [illegible] residents nor citizens of the Cherokee Nation at the time.)

(Mr. White-- I also desire to introduce in evidence the testimony, taken in the case of Mary A. Payne, taken at Claremore, Indian Territory on November 8, 1900.)

Q. Who is the Alice Nave, whose name appears there, if you know? A. My mother.
Q. Her maiden name was Nave? A. Yes sir.
Q. Do you know where your father lived in the Cherokee Nation before he removed to Kansas -- in what District? A. He lived at Webbers Falls just before he moved.
Q. In what District is that? A. Canadian, I believe.
Q. Do you know whether he ever lived in Going Snake District or not? A. I was told he lived there.
Q. Where did your mother live before she was married, if you know? A. In Tahlequah District, east of Tahlequah.

MR. HASTINGS:

Q. How old are you? A. 27 years old.
Q. Are you married? A. Yes sir.
Q. Where were you married? A. At Kiowa.
Q. When? A. Six years ago this fall.
Q. Where were you born? A. Parsons, Kansas.
Q. When? A. In '78.

(Mr. White-- I object to this as not proper examination, and insist that the Cherokee Nation be bound to any answer to questions that he has examined the witness upon.)

Q. Were your parents living in town or on a farm? A. In town.
Q. Is your father living? A. No sir.
Q. Where did he die? A. At Tahlequah.
Q. When? A. In '93.
Q. Did your father own a house in Parsons, Kansas? A. No sir.
Q. Did your mother? A. No sir.
Q. How old were you when you came from Kansas to the Cherokee Nation? A. About 14 years old.
Q. What year did you come? A. In '92.
Q. To what place in the Cherokee Nation did you come? A. To Tahlequah.
Q. You came from Parsons to Tahlequah, direct? A. No, we were living in Fredonia when we came here.
Q. How old were you when you left Parsons? A. Two years old.
Q. Where did you go? A. To Galesburg.
Q. How long did you live at Galesburg? A. Between 4 and 5 years.

Q. Did you live in town or on a farm? A. In town.
Q. Where did you go from there? A. Urbana.
Q. How long did you live there? A. I disremember.
Q. About how long? A. Between 3 and 4 years, probably longer.
Q. Did you live in town? A. Yes sir.
Q. What trade did your father follow? A. Blacksmithing.
Q. Did he blacksmith in each of these towns? A. Yes sir.
Q. From Urbana where did you go? A. To Fredonia.
Q. And from Fredonia you came to Tahlequah? A. Yes sir.
Q. In '92? A. Yes sir.
Q. Up to that time you had never lived in the Cherokee Nation? A. No sir.

COMMISSION:

Q. Is this child, Flossie M. Payne, your daughter? A. Yes sir.
Q. Is she living? A. Yes sir.
Q. Was an application ever made for your wife? A. No sir.

MR. WHITE:

Q. You were married after December 16, 1895? A. Yes sir.
Q. And your child was born before September 1, 1902? A. Yes sir.
Q. You are now living in Tahlequah? A. Yes sir.
Q. You have continued to reside there since your parents' return from Kansas in 1892? A. Not all the time -- I lived at Claremore awhile.
Q. You have continuously lived in the Cherokee Nation since the return of your parents ? A. Yes sir.

MR. HASTINGS:

Q. You came here the first time in '92, didn't you? You didn't return? A. Yes sir, that was the first time I was ever here.

CASE CLOSED.
[illegible]

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 13th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 13th. day of April, 1905.

Myron White
Notary Public.

Cherokee D 466

DEPARTMENT OF THE INTERIOR, H.A.L.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Margaret Highland for the enrollment of herself as a citizen by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 29, 1900, the applicant, Margaret Highland, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen by blood of the Cherokee Nation. The testimony taken in the matter of the application for the enrollment of Nellie Highland, et al. Cherokee D. Case No.346, on September 19, 1900, October 15, 1901, and on November 7, 1901 was made a part of the record in this case.

It appears from the evidence in this case that the name of the applicant, Margaret Highland, does not appear upon the Cherokee authenticated tribal roll of 1880, she at that time being with her parents in the Choctaw Nation where she lived for about four years. The applicant, Margaret Highland, was in the Cherokee Nation in 1881 and has lived there continuously since that year. She is identified on the Cherokee Strip Payment Roll of 1894, as "Maggie Highland" and on the Cherokee Census roll of 1896 as "Margrette Highland."

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898.(30 Stats., 495.)

It is therefore the opinion of this Commission that Margaret Highland is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for her enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 466.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Margaret Highland for the enrollment of herself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 85.

Margarett Hughes

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. Sep 29-1900
B Memo. of application Sep 29-1900
C. Notice of final consideration 2/27/02
D. Order denying testimony 2/27/02
Copy of [illegible] Decision
[illegible] Cherokee Citizen
[illegible]

Applicant transferred
to Cher. 9748

See Cherokee Jacket D346

☐

Cher D. 4a

Q Did you remain here in the Cherokee Nation? A Yes sir.

Q How long did she remain after her application to citizenship? A Well sir, I can't say how long; but she went back down into Arkansas sometime that fall.

Q When did you next see her in the Cherokee Nation? A The first time I saw her I don't recollect. She was at Tahlequah the first time I saw her, but I can't recollect the date.

Q About how many years was it after her admission? A She was admitted in 1883; and it must have been six or seven years. I can't tell exactly.

Q Did you own any property in the Cherokee Nation when you were admitted to citizenship? A No sir.

Q Did you acquire any property after your admission? A Yes sir

Q From whom did you receive the property? A From my father's estate

Q Was the applicant given a portion of your father's estate? A Yes sir.

Q That was the only property she owned here prior to the time she came in 1890 or '91, when she returned? A I am not sure as to that. I wouldn't say it was the only.

Q That's all you know about? A Yes sir.

The Commission. Is there any question you desire to ask the witness Mrs. Herrin? A No sir.

Q Is there any other statement you ~~ix~~ want to make about this case? A I believe not.

Q Do you submit this case to the Commission for final consideration, Mrs. Herrin? A Yes sir.

The applicant and representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed and is reported to the Commission for its final decision based upon the evidence now on file.

I, C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

(signed)F.C.Bagwell.

Subscribed and sworn to before me this February 26, 1902.

(signed)T.B.Needles, Commissioner.

I, R.R.Greer, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy and that same is a true and complete copy of the original transcript.

C.D.467

File with C. D-467, Hattie P. Smith.

Department of the Interior,
Commission to the Five Civilized Tribes,
Pryor Creek, I.T. September 12th,1900.

In the matter of the application of Perlina Herrin for enrollment as a citizen of the Cherokee Nation. The said Perlina Harrin being sworn by Commissioner T.B.Needles, testified as follows:

Q What is your name? A Perlina Herrin.
Q What is your age? A Fifty-two.
Q What is your post office address? A Pryor Creek.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q What degree of blood do you claim? A About one-eighth.
Q What district do you live in? A Cooweescoowee.
Q How long have you lived in the Cherokee Nation? A Ever since 1883.
Q Is your name upon the Cherokee roll of 1880? A No sir.
Q By what right do you claim citizenship? A By my being on the old settler roll.
Q Are you on the roll of 1896? A Yes sir, I am on the roll of 1896.
Q Were you ever admitted to citizenship by the Cherokee Council? A Yes sir.
Q Have you your certificate? A No.
Q What proof have you got of your admission? A Here is Jim King.
BYSTANDER: She was admitted in 1883. I was present at the time.
Q Who do you apply for? A For myself and one child.
Q What is the name of the child? A Walter H.
Q How old is he? A He is ten years old.
Q When did you say you came to the Cherokee Nation? A 1883.
Q Have you lived here since that time? A Not all the time. I moved back in 1891.
Q How long did you stay then? A I have beenhere ever since.
Q Where did you move away to at the time you resided in the States? A I married a white man.
Q Very well, but how long did you live in the states before you moved back to the Cherokee Nation? A I lived from the time I was born until 1883.
Q Then howlong did you live in the Cherokee Nation before you moved back? A I came back and got on the roll in 1883, and my [illegible] women went back and before he got his business wound up he died. And after he died I moved to the Territory.
Q When was that,1891? A Yes, sir; 1891.
Q Did you live in the states from 1883 to 1891? A Yes,sir.
Q What state? A Arkansas.
Q You have been living in the Cherokee Nation ever since 1891?
MR.HASTINGS: (Representative of the Cherokee Nation)
Q Your husband was a white man? A Yes, sir.
Q How long did you stay here in 1883 when you came back? A I came back in August and went back in September.
Q About a month? A Yes, sir.
Q You heard they were going to draw their money in 1891 and you came back to the country? A No, I didn't know they were going to draw any money? I just moved back.
Q Your husband was a citizen of Arkansas and you owned a farm there? A Yes, sir.
Q Youowned the farm up until 1891? A Yes, sir.
Q What part of Arkansas did you live in? A Hot Springs County. Bismark was the post-office.

(On Roll 1896, page 184, No.2456. Pauline Harrin, Cooweescoowee District.

(on 1896 roll Walter H. Harrin, page 184, No. 2460 Cooweescoowee District .

Q Is Walter H. Harrin living with you? A Yes.

Q Where was he born? A In Arkansas.

Q And he came with you from Arkansas the last time? A Yes sir.

The name of Pauline Harrin appears upon the Census roll of 1896, and the name of her son Walter H. appears upon the said roll. She avers that he was admitted to citizenship by the Cherokee authorities in 1883, but presents no certificate of admission. She testifies that she has not resided in the Cherokee Nation longer than since 1891. Final judgment as to the application of the said Pauline or Parlina Harrin will be suspended and her name will be placed upon a doubtful card awaiting the presentation to this Commission of a certified copy of the act admitting her to citizenship in the Cherokee Nation, and also as to further proof as to residence.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the foregoing cause and that the foregoing is a correct transcript of his stenographic nottes thereof.

(signed) Wm.S.Wellshear.

Subscribed and sworn to before me this 14th day of September, A.D.1900.

(signed)T.B.Needles,
Commissioner.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 27,1900.

D. 326.

In the matter of the application of Paulina E. Herring (Perlina Harring)

Additional Testimony.

Paulina E. Herring, being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q Give me your full name? A Paulina E. Herring.

Q What is your post office? A Pryor creek.

Q How old are you? A 52 years old.

Q In what district do you live? A Cooweescoowee.

Q Who is it you want to have put on the roll, yourself? A Yes, sir. And one child.

Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A I have been living here nearly ten years.

Q How did you acquire your citizenship as a Cherokee, by admission? A Yes sir.

(The applicant presents an official copy of an act of the Cherokee Commission on Citizenship admitting, September 3,1883, certain persons to citizenship, and among them appears the name of Paulina E. Herring. This is recognized as official evidence of the fact.)

Q That is your name is it, madam? A Yes sir.

Q Under thatadmission you came here some ten years ago? A Yes,sir.

Q And you have lived here ever since? A Yes sir, ever since.

Q When were you married? A I have been married about 30 years.

Q What is your husband's name? A E.W.Herring.

Q He dead or alive? A He is dead.

Q What was your father's name? A John H. Allen.

Q Dead or alive? A He is dead.

Q Your mother's name? A Malinda.

Q She dead? A Yes sir.
Q Give me the name of your child? A Walter H. Herring.
Q How old is that child? A 9 years old.
Q He is living now, is he? A Yes, sir.

The applicant is found to have made her application September 12,1900, and her card is D 326, but as she presents official evidence in her certificate of admission at that time, what she states now will be preserved as additional testimony, and attention is also called to the Cherokee act of December 4, 1890, set forth on page 128, Report of the Commission in 1899, as affecting her right arising from the time her residence in the Cherokee Nation began. This is cited also in connection with the application for her child.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the gx foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) Bruce C. Jones.

Swern to and subscribed before me this the 29th of September,1900.
(signed)C.R.Breckinridge, Commissioner.

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D 326

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26,1902.

In the matter of the application of Paulina E. Herrin, for the enrollment of herself and son as citizens of the Cherokee Nation.

Appearances:
Applicant present in person;
W.W.Hastings, for the Cherokee Nation.

PAULINE E. HERRIN, being sworn and examined, testified as follows:

Q What is your name? A Pauline E. Herrin.
Q How old are you? A I am 53.
Q Your post office address? A Pryor Creek.
Q You are xx an applicant before the Commission for enrollment as a Cherokee citizen? A Yes sir.
Q Is there any statement you desire to make relative to your enrollment? A My papers is here before the Commission. I have two brtothers and one cousin here to testify.

A.C.B.Allen, being sworn and examined, testified as follows.
Q What is your name? A A.C.B.Allen.
Q Where do you live? A Vinita.
Q Are you acquainted with the applicant in this case, Pauline E. Herrin? A Yes sir, she's my sister.
Q Same father and mother? A Yes sir.
Q Were you admitted to citizenship at the same time she claims to have been admitted? A Yes sir, the day after, I believe.
Q Were you living in the Cherokee Nation at that time? A Yes sir.
Q Do you know of your own knowledge when the applicant came to the Cherokee Nation? A She came here in 1883.
Q How long did she remain? A I think she went back to Arkansas.
Q How long did she remain here? A But a short time.

Q About how long? A I can't say, because at that time I lived at Claremore, and I went back home and left her at Tahlequah.
Q Did she come up to be admitted? A Yes sir.
Q When did you next hear of her being in the Cherokee Nation?
A I think it was about '90, perhaps, when she came back.
Q Do you know why she left the Cherokee Nation and went to Arkansas? A She told me she was going back and dispose of their property there and come back.
Q Do you know whether she owned any property here prior to her return to Arkansas? A Before she returned to Arkansas?
Q Yes. A No sir, she didn't own any before she returned.
Q I mean along in 1883, did she own any property here then?
A No sir, there didn't any of us, because we had just come out to be admitted. She didn't acquire anyproperty until she came in 1890. ~~She x~~ Our father left a farm that belonged to her and me and my neice, when he died.
Q When did he die? A About 1885.

By Mr. Hastings:

Q She just had an heir's interest in that estate? A Yes sir.
The Commission: Is there any further statement you desire to make relative to her case?
A I know I kept that farm until she returned to the Territory, and then ~~xx~~ I sold it. I was talking to the fellow I sold it to yesterday. He said it was in 1890 or '91. I sold it to Zeno Cox. I sent her her ~~xx~~ part of the rent all the time, and when I soldit I sent her one third of the proceeds.
Q Did she derive any rent from that farm? A Yes sir.
Q What rent did you pay her in 1887? A I can't tell you the amount of the rent. I just sold the crop and gave her one third of the proceeds.

JAMES A. KING, being sworn and examined, testified as follows:
Q What is your name? A James A. King.
Q What is your post office address? A Tahlequah.
Q How old are you? A I am 48.
Q Are you acquainted with the applicant in this case? A Yes sir.
Q Are you related to her? A She 's my first cousin.
Q Where were you living when she claims to have been admitted to citizenship? A I was living at Tahlequah.
Q Did you see her there at that time? A Yes sir.
Q How long have you continued to live there? A Ever since that date
Q Was she living there during that time, or did she just come to stay there until she was admitted? A They come and put up a tent over at my father's place. She was there a month. There was a Commissioners' court in session there when she made this application.
Q How long did she reside there? A About a month. I know that they returned back to where they had a home in Arkansas.
Q When did you next see her in the Cherokee Nation? A In '91 or '92
Q Have you seen her here continuously since that time? A She lived at Tahlequah quite a while, three or four years, and then moved up to where she lives now; ~~at~~ Pryer Creek.
Q You don't know anything, about this property she claims to have inherited from her father? A Only what has been told me.

The Commission: Is there any question you desire to ask the witness, Mrs. Herrin? A No sir.
Q Is there any other statement you desire to make about this case? A Nothing more than I have stated.

THOMAS P. ALLEN, being sworn and examined, testified as follows:
Q What is your name? A Thomas P. Allen.
Q How oldare you? A I am 40 yeard old.
Q Post office address? A Vinita.
Q Are you a brother of the applicant? A Yes sir.
Q Were you admitted to citizenship at the same time she was? A Yes sir.

Q Did you remain here in the Cherokee Nation? A Yes sir.
Q How long did she remain after her admission to citizenship?
A Well sir, I can't say how long; but she went back down into Arkansas sometime that fall.
Q When did you next see her in the Cherokee Nation? A The first time I saw her I don't recollect. She was at Tahlequah the first time I saw her, but I can't recollect the date.
Q About how many years was it after her admission? A She was admitted in 1883; and it must have been six or seven years. I can't tell exactly.
Q Did you own any property in the Cherokee nation when you were admitted to citizenship? A No sir.
Q Did you acquire any property after your admission? A Yes sir
Q From whom did you receive the property? A From my father's estate
Q Was the applicant given a portion of your father's estate? A Yes sir.
Q That was the only property she owned here prior to the time she came in 1890 or '91, when she returned? A I am not sure as to that. I wouldn't say it was the only.
Q That's all you know about? A Yes sir.
The Commission. Is there any question you desire to ask the witness Mrs. Herrin? A No sir.
Q Is there any other statement you do want to make about this case? A I believe not.
Q Do you submit this case to the Commission for final consideration, Mrs. Herrin? A Yes sir.

The applicant and representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed and is reported to the Commission for its final decision based upon the evidence now on file.

E.C.Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

(signed)E.C.Bagwell.

Subscribed and sworn to before me this February 26,1902.

(signed)T.B.Needles, Commissioner.

I,M.D.Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy and that same is a true and complete copy of the original transcript.

MDGreen

D467

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
[illegible]
CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application for the enrollment of Hattie F. Smith and child as Cherokees by blood; being sworn and examined by Commissioner Breckenridge, Landon C. Smith testified as follows:

Q Give me your name, please? A Landon C. Smith.
Q How old are you? A [illegible].
Q What is your post office? A Chouteau.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A My wife and one child.
Q And yourself? A No, sir.
Q Is your wife a Cherokee by blood? A Yes, sir.
Q What is her name? A Hattie Florence.
Q How old is she? A 16.
Q What was the name of her father? A E. W. Herring I think it was.
Q Is he dead or alive? A He is dead.
Q Was he a Cherokee? A No, sir.
Q How long since he died? A Ten or twelve years ago.
Q Give me her mother's name? A Paulina E. Herring.
Q She dead or alive? A She is alive.
Q Have you ~~and~~ your marriage license an certificate? A Yes, sir.
(The applicant presents a duly authenticated marriage license issued by the Clerk of the United States Court for the Northern District of the Indian Territory, October 28, 1899, authorizing his marriage to Miss Florence Herring, and the certificate shows that they were united in marriage in accordance with said license on October 31 of the same year by the Rev. D. B. Bryant. This is filed herewith.)
Q Is your wife a native of the Cherokee Nation? A Yes, sir.
Q Has she lived here all her life? A Her mother was admitted here in 1888 and she came with her here.
Q Have you the certificate of her mother's admission? A Yes, sir.
(The applicant presents a duly authenticated certificate of the official records of the Commission on Citizenship of the Cherokee Nation, showing that on September 6, 1888, certain persons were admitted by the Commission, and among them appears the name of Paulina E. Herring.)
Q Is that the name of your wifes mother? A Yes, sir.
(This is recognized as official evidence of the admission as stated and the paper is returned to the applicant.)
Q Your wife was born since that date? A Yes, sir, I made a mistake when I said she came here.
Q She was born in the Cherokee Nation and has lived here all her life, has she? A I suppose so.
Q You never heard of her living anywhere else, have you? A Yes.
Q Where did she go? A She went with her mother to Arkansas, I think, a while, and came back here in 1890.
Q Was her mother living over in Arkansas? A Well, she had lived there before she was admitted.
Q I am talking about after the admission? A Yes, I think she did, she went back there to wind up her business to come back here.
Q Where was your wife born, while her mother was over in Arkansas or born here? A She was born in Arkansas.
Q Is her mother here in the building? A Yes, sir.

Paulina E. Herring, being sworn and examined by Commissioner Breckenridge, testified as follows:
Q Give me your name? A Paulina E. Herring.
Q Are you the mother of Hattie Florence Smith? A Yes, sir.
Q She is the wife of this applicant here? A Yes, sir.
Q Was she born after you were admitted by the Cherokee Commission—

in 1883? A Yes, sir.

Q Where was she born, in Arkansas? A Yes, sir.

Q Were you living in the Cherokee Nation before you were admitted in 1883? A No, sir.

Q How long after you were admitted in 1883 before you came to the Cherokee Nation? A I came here in 1890, I moved here.

Q You didn't move until 1890? A No, sir, something like that.

Q Something like seven years after you were admitted? A Yes, sir.

(Reference is made to the application of the witness (Perlina E. Herring), ~~additional~~ testimony taken September 12, 1900, p. 326.)

Q You came here after you were admitted in 1883 and stayed about a month? A No, sir, I came in 1883 and stayed about a month and then I moved back in 1890 and have been here ever since, lived here.

Q And after you left here in 1883, then this daughter was born? A Yes, sir.

Q And moved with you in 1890? A Yes, sir.

Q And she has lived and you have lived in the Cherokee Nation ever since you came back in 1890? A Yes, sir.

Landon G. Smith, recalled, testified as follows:

Q Give me the name of your child, please? A Alma Irene.

Q How old is that child? A Three months.

(Hattie Florence Smith on 1896 roll, page 184, No. 2459, Hattie F. Herring, Cooweescoowee district.)

Paulina E. Herring, recalled, testified:

Q After you left here in 1883, did you leave any property back here? A Yes, sir.

Q What kind of property? A I left stock and land.

Q And did you continue to have property from 1883 until you came back in 1890? A Yes, sir. I had property when I came back here in 1890.

Q Where was that stock and land in 1890? A Right here in Vinita.

Q Your stock wasn't in town? A It was out on my farm, me and my brother owned a farm five miles from here.

Mr. J.L.Baugh, representative of Cherokee Nation: Your brother was living here prior to your admission, was he? A My brother came in 1883, in the spring, and I came in the fall, and was admitted and I went back and he lived right here ever since.

Q He own a farm ~~right~~ here in the country? A Me and him both own a farm out there five miles on White Oak Creek.

Q Did you put in any money with him and buy a half interest in that farm? A Yes, he brought the stock with him, I had stock all ready to move out and my man taken sick and I didn t come and I put off coming until 1890.

Q You owned a farm in Arkansas? A Yes, sir, but I sold that.

Q How long did you continue to own that farm? A I sold it before I came away, my part of it.

Q You sold it in 1890? A I sold the year before I came, my part of it.

Landon G. Smith, recalled again, testified:

Commissioner Breckenridge: The applicant applies for the enrollment of his wife and one child. His wife is identified on the roll of 1896 as a native Cherokee, and her mother is shown to have been admitted to Cherokee citizenship in 1883, before the applicant's wife was born. Prior to the birth of the applicant's wife, her mother moved to Arkansas, in the year 1883, and remained there until 1890, when, according to the testimony, the mother came back bringing her daughter, and has lived here ever since. The change of name in the applicant's wife is established by the marriage license and certificate filed herewith. For the future consideration, particularly [illegible] Smith - 2.

of the question of residence [illegible] the testimony, [illegible] part of the applicant [illegible] at the request of the [illegible], [illegible] 3, Article one, of the [illegible] the [illegible] certificate of birth is supplied to the [illegible] child, Alma Irene Smith, this while will be listed [illegible] as a Cherokee by blood upon a doubtful card for future [illegible]. When a final decision is made, it will be communicated to the applicant at his post office address.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 1st of October, 1900.

Commissioner.

"R"

Cherokee D 467

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Hattie F. Smith for the enrollment of herself and child as Cherokee citizens.

Appearances:
J. Howard Langley, Pryor Creek,I.T., attorney for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that the application of herself for her own enrollment and that of her child would be taken up by the Commission for final consideration on the 27th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and on this day to-wit the 27th day of February 1902 the applicant appears by her atterney, J. Howard Langley, of Pryor Creek, I. T.
BY COMMISSION OF ATTORNEY LANGLEY: You desire to make any statement?
BY ATTORNEY LANGLEY: I desire to file a brief only.
BY COMMISSION: Do you submit the case?
BY MR. LANGLEY: Yes sir. I desire however, that reference be had to the testimony in the case of the application of Pauline Herod, mother of this applicant.

BY COMMISSION: The attorney for the applicant requests and will be granted ten days in which to file brief in this case, a copy with the Commission and a copy with the representative of the Cherokee nation. The attorney for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission based upon the evidence now of record.
It is directed that copies of the testimony had in the matter of the applisation of Pauline Herod, the applicant's mother, whose name appears upon card D-326, be filed and made part of the record in this case.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28,1902.

Commissioner.

Cherokee D 467

T.H.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Landon C. Smith for the enrollment of his wife, Hattie F. Smith, and his minor child, Alma I. Smith, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 29, 1900, the applicant, Landon C. Smith, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of his wife, Hattie F. Smith, and his minor child, Alma I. Smith, as citizens by blood of the Cherokee Nation. At the conclusion of the testimony taken at that time the names of Hattie F. Smith, and her child, Alma I. Smith, were placed upon a Doubtful Card for future consideration, particularly of the question of residence and citizenship. Thereafter, on February 27, 1902, at Muskogee, Indian Territory, it was ordered that copies of the testimony taken in the matter of the application of Paulina Herrin, Cherokee D Case No.326, be filed and made part of the record in this case.

It appears from the evidence in this case that the mother of Hattie F. Smith, Paulina E. Herrin, with others, was admitted to all the rights and privileges of Cherokee citizenship, without conditions, by the Commission on Citizenship of the Cherokee Nation, September 7, 1883. The applicant in this case, Hattie F. Smith, had not been born at that date. It further appears from the evidence that the applicant, Hattie F. Smith, was born in Arkansas to which state her mother had returned shortly after her admission in 1883 for the purpose of closing out business interests there. In 1889, prior to the enactment of the Act of the Cherokee Council of December 4, 1894, requiring all persons who had been re-admitted to citizenship in the Cherokee Nation to permanently locate within the limits of the Cherokee Nation within six months from the passage of that Act, the applicant, Hattie F. Smith, came, with her mother, to the Cherokee Nation, she at that time being six years of age, and she has lived in the Cherokee Nation ever since that year.

It further appears from the evidence that the applicant, Hattie F. Smith, was married, on October 31, 1899, to Landon Smith, her name appearing in the marriage license as "Florence Herrin". Thereafter, on June 10, 1900, a female child, Alma I. Smith, was born to the applicant, Hattie F. Smith, and her husband, Landon G. Smith, and proper proof of her birth has been furnished the Commission. The applicant, Hattie F. Smith, is identified on the Cherokee Census roll of 1896 as "Hattie F. Herrin", her maiden name.

The authority of the Commission herein is defined in Paragraph 1, of Section 21, of the Act of Congress June 28, 1898. (30 Stats., 495)

It is therefore the opinion of this Commission that Hattie F. Smith, and Alma I. Smith are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this AUG 11 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D 467.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Landon C. Smith for the enrollment of his wife, Hattie F. Smith, and his child, Alma I. Smith, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 24.

IN THE MATTER OF THE APPLICATION

Hattie F. Smith et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 29-1900
B. Memo. of application Sep 29-1900
C. Marriage license and certificate
D. Affidavit of birth - Alma I. Smith.
E. Receipt for testimony
[illegible]

F. Notice of final consideration 2/27/02
G. Order closing testimony. 2/27/02
H. Supplemental testimony from
care of Perlina Stevens, Sep 12, 1902.

Sept 13, 1902 Cancelled and
transferred to C [illegible]

Cher D 468

Cher D 468

FEDERAL [illegible]
COMMISSION [illegible]
FILED
[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEP., 29, 1900.

In the matter of the application of Nancy Reed for enrollment of herself, husband and five children, as citizens of the Cherokee Nation, said Reed being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A Nancy Reed.

Q How old are you? A 38.

Q What is your postoffice address? A Zena.

Q In what district do you live? A Delaware.

Q Whom do you want to have put on the rolls? A Myself, husband and five children.

Q Do you apply for yourself as a Cherokee by blood? A Yes.

Q Is your husband a Cherokee by blood or white man? A White man.

Q Are you a native of the Cherokee Nation? A Yes.

Q Lived here all your life? A Yes.

Q What was your father's name? A Jess Woods.

Q Dead or alive? A Dead.

Q How long since he died? A About 15 years.

Q Give me your mother's name? A Mandy.

Q Is she dead or alive? A Alive.

Q Cherokee or white woman? A Cherokee.

Q Was your father a Cherokee? A No sir, white man.

Q Have you your marriage license and certificate? A Yes.

The applicant presents a marriage certificate showing that on September 12, 1890, Nancy Miller was married to Joseph Reed by Rev. R. T Parks. That was your marriage to your husband? A Yes.

It is filed herewith.

Q This is not your first marriage? A No sir.

Q How many times have you been married before? A Twice.

Q When did you marry Miller? A About 23 years ago I guess.

Q What was your husband Miller,s full name? A Martin Miller.

Q Is he a Cherokee or white man? A Cherokee.

Q When did you marry him? A About 23 years ago.

Q Is he dead or alive? A Alive.

Q How long did you live with him as his wife? A About 4 years.

Q Then did you get a divorce from him? A Yes.

Q Is this a copy of the decree of divorce? A Yes.

Applicant files official copy of the decree of divorce between herself and her former husband, Martin Miller, dated September 3, '90. It is filed herewith.

Q Now you were married before that-- that was your second marriage to Miller? A Yes.

Q What was your first marriage? A William Woodard.

Q When did you marry him? A About 25 years ago.

Q How long did you and he live together as husband and wife? A 20 years .

Q Did he die? A Yes.

Q And he was dead when you married Miller? A yes.

Q Well, then in the year '80 you are on the roll as a Miller?
A yes.

Q Your present husband,s name is Joseph Reed? A Yes.

Q What is age? A 49.

Q And he claims his citizenship by adoption through his marriage in '94 with Julia Chouteau. Now do you present this marriage license and certificate that I hold in my hand as the paper on which your husban claims citizenship by adoption? Is this to establish your husband's claim? A I don't know, he didn't tell me to give it to you.

Upon further examination it appears that the date of the marriage license is 1874.

Q What was the name of his Chouteau wife? A Julia.

The applicant presents what is now disclosed to be a marriage license issued by the Clerk of Delaware district March 4, 1874, to

Joseph Reed authorizing his marriage to Joey or July Chouteau, and the certificate shows that they were united in marriage in March by the Judge of the District on the 5th of the same month and year? It is filed herewith.

Q How long did your husband live with July Chouteau? A I cannot tell you.

Q Is she dead? A Yes.

Q You do not know when she died? A He said she had been dead about 20 years.

Q Do you know whether they were separated before her death? A No sir, they were not separated.

Q Now you and your husband were married in '90 as shown here- 10 years ago? A Yes.

Q And your husband said that July Chouteau was dead 20 years ago? A yes.

Q You do not know the name of her father or mother? A No sir.

Q Now after July Chouteau died did your husband marry again? A No sir, not until he married me.

Q Give me the names of these children? A Looney Reed, 17 years old.
On '96 roll, page 523, number 2595, as Luna.

Q Next? A Lula Reed, 17 years old. (Twins.)
On '96 roll, page 523, number 2596.

Q Next? A Etty Reed, page 14.
On '96 roll, page 523, number 2597, as Etta.

Next? A John Reed, 12 years old.
On '96 roll, page 523, number 2598.

Q Next? A pearl Reed, 10 yearsold
On '96 roll, page 523, number 2599.

Q These children are all alive now? A yes.

Q These are all the children of your present husband? A Yes.
Applicant on '80 roll, page 283, number 1636, as Nancy M. Miller.
On '96 roll, page 523, number 2594, as Nancy Reed.
Applicant's husband on '80 roll, page 304, number 2145.
On '96 roll, page 587, number 451.

Q Where is your husband at this time? A He is at home.

Q Has your husband lived in the Cherokee nation ever since '80? A Yes.

The applicant applies for the enrollment of herself, husband and five children. She is identified on the rolls of '80 and '96 as a Native Cherokee, and states that she has lived in the Cherokee Nation all her life. Her change of name is established by the marriage certificate filed herewith, and she will be listed now for enrollment as a Cherokee by blood. Her five children are identified with her on the roll of '96 as native Cherokees. They are living at this time. They are all minors and will be listed now for enrollment as Cherokees by blood.

In regard to the enrollment of her husband: He is identified on the authenticated rolls of '80 and census rolls of '96, and she states that he has lived in the Cherokee Nation ever since '80. Now his enrollment in '80 as an adopted citizen is shown to have arisen from his marriage previous to that time to a former Cherokee wife. She is said to have died in '84, and the applicant is shown to have been married to her present husband in '90. Now she states that her husband was not married between the death of his former wife in '84 and his marriage to herself in '90, but she has applied for children 17 and 14 and 12 years of age, which she states are her children by this husband which shows that they lived together in some capacity before the marriage that is shown in the record. This discredits his whole conduct and throws doubts upon his citizenship status during the period intervening between the deadt of his first wife and his declared marriage to his present wife. Therefore, the application for his enrollment will be placed upon a doubtful card for further consideration.

The applicant now reveals since the foregoing was declared that her two children, Luna, and Lula Reed, are married; therefore their names will be stricken from the present enrollment and they will be required to make application for themselves.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 1st day of October, 1900.

Commissioner.

"R"

D 468

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 27, 1902.

In the matter of the application of Joseph Reed, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 11, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 27th day of February, 1902, and that he could on said date appear before the Commission in person or by attorney, and an opportunity would be given him to introduce any further testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

Applicant having this day, to-wit: the 27th day of February, 1902, been called three times, and failing to respond either in person or by attorney, it is ordered that this case be closed, and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cher
Supp'l to D 468

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., February 11, 1903.

In the matter of the application of JOSEPH REED, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

JOSEPH REED, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Joseph W. Reed.
Q How old are you ? A Fifty.
Q What is your post office ? A Zena.
Q Are you a white man ? A Yes sir, supposed to be.
Q Are you claiming the right to be enrolled as a citizen by intermarriage ? A Yes sir.
Q What is your wife's name ? A Nancy Reed.
Q Is she the wife through whom you are claiming your citizenship ?
A Yes sir.
Q Was she your wife in 1880 ? A No sir, I have been married twice, my first wife was Julia Chouteau.
Q Then she is the one through whom you are claiming ?
A Yes sir.
Q How long did you live with her ? A Why seven or eight years; I lived with her until she died.
Q She was your wife in 1880 ? A Yes sir.
Q You lived with her from 1880 until she died ? A Yes sir.
Q You have married since she died ? A Yes sir.
Q Your present wife is named Nancy ? A Yes sir.
Q She is your second wife ? A Yes sir.
Q Have you lived with her ever since you married her ? A Yes sir.
Q Was she ever married before ? A Yes sir.
Q Had she any living husband when you married her ? A Yes sir.
Q Is she a Cherokee by blood ? A Yes sir.
Q You say she had a living husband when you married her ?
A Yes sir.
Q Weren't they divorced ? A They were, yes sir.
Q Were they divorced when you married her ? A Yes sir.
Q She didn't have a living husband then ? A Why he was living of course.
Q Have you been residing in the Cherokee Nation ever since 1880 ?
A Yes sir.
Q Never lived anywhere else ? A No sir.

Examined by Mr. Hastings:

Q Had Julia Chouteau ever been married when you married her ?
A No sir.
Q Were you ever married before you married her ? A No sir.
Q Did you file a Cherokee license and all ? A Yes sir.
Q You lived with Julia Chouteau until she died ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this March 3, 1903.

Samuel Foreman
Notary Public.

(COPY)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Washington. February 26, 1907.

Land
18969-1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is forwarded herewith report of Commissioner Bixby dated February 18, 1907, relative to the application for the enrollment of Joseph Reed as a citizen by intermarriage of the Cherokee Nation.

On January 26, 1907 (I T D 1395-1907), the Department affirmed the decision of the Commissioner of January 10, 1907, denying, among others, the application of Joseph Reed.

It is shown by the record, however, that the applicant is entitled to enrollment as a citizen by intermarriage of the Cherokee Nation under the decision of the Supreme Court in the case of Daniel Red Bird, et al. vs. The United States, and it is recommended that the Department rescind its decision of January 26, 1907, so far as it relates to this applicant, and that he be enrolled as a citizen by intermarriage of the Cherokee Nation.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJW-EH.

(COPY) **SPECIAL** JP.

DEPARTMENT OF THE INTERIOR,
Washington, FHE
March 1, 1907.

I T D 5988-1907 LRS

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with your recommendation of February 18, 1907, you are authorized to enrol Joseph Reed as a citizen by intermarriage of the Cherokee Nation, and the decision of the Department of January 26, 1907, adverse to him, is rescinded.

It is shown that he was married in accordance with the Cherokee law, to his first Cherokee wife, a citizen by blood, in 1874.

A copy of Indian Office letter of February 27, 1907 (land 18969-07), submitting your report and recommending that the party be enroled, is inclosed.

A copy hereof and the papers in the case have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson,
Assistant Secretary.

P Inc. & 3 for Ind. Of.

A F Mc
3-2-07

REFER IN REPLY TO THE FOLLOWING:

Cherokee D.

468

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 8, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of Joseph Reed as a citizen by intermarriage of the Cherokee Nation, was granted by the Secretary of the Interior March 1, 1907.

For your information, there is enclosed herewith copy of Departmental letter referred to.

Respectfully,

Commissioner.

Enc I-2
RPI

10499

HE MATTER OF THE APPLICATION OF

Joseph Reed (438)

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 29-19

B. Memo of application Sep 29-19

C Notice of final consideration 2/27

D Order closing testimony 2/27/02

GRANTED by Dept.
MAR 1- 1907

See Jacket No 3785
Cancelled and record transferred to 10999

Cher D 469

Cher D 469

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 2 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 29, 1900.

In the matter of the application of John E. Smith for the enrollment of himself, wife and child as citizens of the Cherokee Nation; said Smith being sworn by Commissioner T.B.Needles, testified as follows:

Q What is your name? A John E. Smith.

Q What is your age? A 27.

Q What is your post office address? A Chouteau.

Q What district do you live in? A Cooweescoowee.

Q Are you a recognized citizen of the Cherokee Nation? A yes,sir.

Q Tax XXXX By blood or intermarriage? A Intermarriage.

Q For whom do you apply ? A Mym wife and child.

Q Yourself? A yes, sir.

Q What is the name of your wife? A Artha D. Herrin

Q How old is she? A 19.

Q What is her father's name?A I do not know, he has been dead a long time.

Q What is her mother's name? A Caroline.

Q Is she living? A No, sir.

Q Have you any proof of marriage?A I have witnesses here.

Q Why haven't you a certificate of marriage? A They never issued me any certificate. I was married under Cherokee law.

Q When were you married?A 1897.

Q Have you any children? A Yes, sir, one.

Q What is its name? A Ethel.

Q How old is it? A Five months old.

Q Have you proof of birth? A Yes, sir.

Applicant presents satisfactory proof of birth as to his child, Ethel, five months old, whose name does not appear upon the census roll of 1896, having been born since said roll was compiled.

Q You say your wife's name was Artha; what was her mother's name?
A Caroline E. Herrin. She was not admitted until 1883.

Applicant presents certificate of Admission to Cherokee citizenship, issued from the office of the Commission, Tahlequah, September, A. D. 1883, signed by James Tehee, President of the Commission, Alexander Wolf and T. F. Thompson, Commissioners, attested bh D. W.C. Duncan, Clerk of the Commission, certificate certified to by D. W Alberty, Asst. Executive Secretary, under the great seal of the Cherokee Nation, certifying that among others one Arther Herrin was admitted to Citizenship on the 7th day of September, 1883.

Q Is your wife the identical Arther Herrin mentioned in this certificate? A yes, sir.

Q She is living now? A Yes, sir.

Q Was she ever married before? A No, sir.

Q Were you ever married before? A No, sir.

Q Were you ever admitted to citizenship? A No, sir.

Q Did you ever apply? A No, sir.

Q Is your wife's name on the roll of 1896? A I think so.

1896 enrollment; page 134, #2458, Artha D. Herrin, Cooweescoowee.

Q How long has your wife been living in the Cherokee Nation? A Ten years.

Interrogatories by P. C. West, Cherokee Representative:

Q Right after their Admission in 1883, they left the Territory and did not come back until 1890, did they? A I think so.

Q That is a fact is it? A I could not say.

Q That is your understanding?A Yes, sir.

Q You say that you did not make application to the Dawes Commission in 1896. You were included in the Case of Emily T. Smith, your mother, and all of those applicant in that case were rejected? A Yes sir.

John E. Smith---2.

Commissioner Needles:

Q Were you living here in 1898? A Yes, sir.
A Been living here ever since 1889 or 90 when we came back.

Com'r Needles:--The name of Artha D. Herrin appears upon the census roll of 1896. Applicant avers that he was married to her in the year 1897. He presents certificate of Admission certifying that his wife was admitted to citizenship in the year 1883. The testimony shows that they removed from the Territory and didnot return until the year 1890. Satisfactory proof has been made as to thebirth of their child, Ethel. By reason of their removal from the Territory and not having been re-admitted after their return, final judgment as to the enrollment of the said Artha D. Herrin and her child, Ethel, will be suspended and their names will be placed upon a doubtful card.

It appearing from the testimony that the said Artha D. Herrin was married to one John E. Smith, the applicant, a white man, in the year 1897, too late under the laws of the Cherokee Nation for intermarried persons to receive any rights to citizenship, the applicant of the said John E. Smith for the enrollment of himself is refused. The cause of his rejection is also from the fact that he applied to the Dawes Commission for enrollment as a citizen by blood in the year 1896, in the case of Emeline Smith et al., and his application was rejected by said Commission.

The Cherokee nation protests against the enrollment of the said Artha D. Smith, nee Artha D. Herrin, and her child, because of the fact of their removal from the territory, and non-readmittance after their return. See Dawes Commission Case #4549.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 2d day of October, 1900.

Commissioner.

Department of the Interior
[illegible]
[illegible]

SUPPLEMENTAL PROCEEDINGS in the matter of the application of [illegible] G. Smith for [illegible] of [illegible]

Appearances:
[illegible] Jackley, [illegible], attorney for the applicant.
W. H. Hastings, attorney for the Cherokee Nation.

[illegible] the applicant was notified by registered letter February 11, that [illegible] would be taken up by the Commission for final consideration on the 24th day of February, 1902. [illegible] has been acknowledged [illegible] the Commission's letter and [illegible] this day, [illegible] the 25th day of February, 1902, [illegible]

BY [illegible]: [illegible] statement you desire to make relative to this case? [illegible]

[illegible] a copy of the testimony in the [illegible] in this case, and [illegible]

[illegible]

The attorney for the applicant and [illegible] state [illegible] and [illegible] to the Commission for final [illegible]

[illegible]

[illegible]

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Cherokee D 449

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Arthur D. Smith for the enrollment of himself and child as Cherokee citizens.

Appearances:
J. Howard Langley, Pryor Creek, I.T., attorney for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11, that her case would be taken up by the Commission for final consideration on the 27th day of February, 1902. Receipt has been acknowledged of the Commission's letter and the applicant this day, to-wit: the 27th day of February, 1902, appears before the Commission by her attorney, J. Howard Langley of Pryor Creek, I. T.
BY COMMISSION OF ATTORNEY: Any statement you desire to make relative to this case?
BY ATTORNEY LANGLEY: I desire a copy of the testimony in the case of Pauline Herod, D 326, filed and made part of the records in this case, and desire to file a brief in this case.
Q Do you submit the case with that? A Yes sir.

BY COMMISSION: The attorney for the applicant requests and will be granted ten days within which to file a brief with the Commission and a copy with the representatives of the Cherokee Nation; he also requests copies of the testimony in the matter of the application of the applicant's mother, Pauline Herod filed with and made part of the record in the case at bar, which request will be complied with.

The attorney for the applicant and the representative of the Cherokee Nation present submit this case and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee D 469.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Artha D. Smith and her two minor children, Ethel and William L. E. Smith, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 29, 1900, John E. Smith appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his wife, Artha D. Smith, and his minor child, Ethel Smith, as citizens by blood of the Cherokee Nation. The application included John E. Smith, but, as he is differently classified, he is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 27, 1902. The testimony taken in the matter of the application for the enrollment of Paulina E. Herrin, et al., Cherokee Doubtful case No. 326, is made a part of the record in this case.

The evidence shows that Artha D. Smith, nee Herrin, 19 years of age at the date of this application, was admitted, with others, to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on September 7, 1883. The said Artha D. Smith is identified on the Cherokee Strip Payment roll of 1894 and on the Cherokee Census roll of 1896. Two children, Ethel Smith and William L. E. Smith, were born to Artha D. Smith and her husband, John E. Smith, on April 21, 1900 and February 6, 1902, respectively, and proper proof of their births has been furnished this Commission.

After her admission to citizenship in 1885, the said Artha D. Smith remained in the Cherokee Nation but a short time before returning to Arkansas with her parents. She again came to the Cherokee Nation in 1890, she at that time being a minor, and has lived there continuously since that year. It is considered that the two children, Ethel and William L. E. Smith, have lived in the Cherokee Nation continuously since their birth.

It is, therefore, the opinion of this Commission that Artha D. Smith, Ethel Smith and William L. E. Smith, should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this ______________________.

Cherokee R-469.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Nancy J. Hail as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on December 7, 1900, James Monroe Hail appeared before the Commission at Tahlequah, Indian Territory, and made application for the enrollment, among others, of his wife, Nancy J. Hail, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on October 8, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that the said Nancy J. Hail was married in the State of Tennessee on January 15, 1875, to her said husband under the name of John M. Hail. The records of the Cherokee Nation in the possession of this Commission, show that the said James Monroe Hail was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on May 23, 1887. Nancy J. Hail is identified on the Cherokee census roll of 1896. The Cherokee Supreme Court, in the cases of Cherokee Nation vs. Nancy Rogers, and Melissa Dawson vs. W. A. Dawson, held that a white woman married to a Cherokee Indian at the time of his admission to citizenship, acquires thereby the rights of Cherokee citizenship.

The evidence further shows that said Nancy J. Hail has lived with her said husband in the Cherokee Nation since his admission to citizenship therein continuously, up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Nancy J. Hail should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this DEC 10 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH.
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 469.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of John E. Smith for the enrollment of his wife, Artha D. Smith, and his two minor children, Ethel and William L. E. Smith, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 86.

Bay

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee R 469.

Muskogee, Indian Territory, December 20, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 12, 1902, granting the application of James Monroe Mail for the enrollment of his wife, Nancy J. Mail, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure R. No. 416.

IN THE MATTER OF THE APPLICATION OF

Artha D. Smith et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony Sept 29 1900
B. Memo of application Sept 20 - 1900
C. Affidavit of birth Ethel Smith
D. Notice of final adjudication 3/27/0

E. Supp test + order closing test 3/27/02
F. Original test from Perlina [illegible] case 9/14/00
Birth affidavit, Wm. L. E. Smith

See Jacket No R 195

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O THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 19

CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 29, 1900.

In the matter of the application of Joseph B. Ladd for the enrollment of himself, wife and six children as Cherokee citizens; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q Give me your full name? A Joseph B. Ladd.
Q How old are you Mr. Ladd? A 5[illegible] yearsold.
Q What is your post-office? A Grove.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll, yourself?
A Myself and family.
Q That means your wife and how many children? A Wife and eight children, but there is two of them of age.
Q Six that are under age and unmarried and alive? A Yes sir.
Q Do you apply for yourself as a Cherokee by blood? A No sir.
Q White man? A Yes sir.
Q Your wife is a Cherokee? A Yessir
Q Show me your marriage license and certificate? A They are worn out; I kept them until they wore out.
Q You were married before 1880? A Yes sir; I was married in 1875
Q You are on the roll of 1880? A I don't know sir, I was in Kentucky in 1880; I was on the rolls before that and on the rolls since.
Q When you married in 1875 how long did you stay here then?
A I staid here until the spring of 1877 and moved back to Kentucky and staid there until the fall of 1880 and came back.
Q Then when you came back in 1880 why didn't you get a certificate of admission? A I have been on the rolls since; I never got a certificate because there was no use of it.
Q What did you go to Kentucky for? A Moved there to live there
Q And then you concluded you wouldn't live there? A Yes sir and came back from Kentucky; I have been here ever since.
Q You came back from Kentucky in the fall of 1880?
A Yes sir
Q You went there how long after your marriage? A Married in the spring of 1875 and I went to Kentucky in the spring of 1877.
Q Give me your wife's name? A Mary Josephine Ladd.
Q How old is she? A About 46 yearsold
Q She is not on the roll of 1880 either? A No sir.
Q But she is on the roll of 1896 you think? A Yes sir.
Q You and she have lived together ever since your marriage in 1875? A Yes sir.
Q Now give me the names of these children? A Burnett A. Ladd.
Q How old is he? A I think he is 16 years old.
Q Next child? A Henry B. Ladd.
Q How old is he? A He is 13 yearsold.
Q Next child? A James D. Ladd.
Q How old is he? A They are twins, same age.
Q What is the next child? A Lula May.
Q How old is that child? A 10 yearsold.
Q Next child? A Clara L.
Q How old is she? A 7 years old I think.
Q Next child? A Mattie Pearl.
Q How old is she? A She is 3 yearsold past.
Q That's all isn't it? A Yes sir.
Q These children all living now? A Yes sir

1896 roll page 580 #[illegible] Joseph B. Ladd Delaware District.
1896 roll page 496 #1353 Mary J. Ladd Delaware Dist, a native Cher;
1896 roll page 496 #1354 Burnett A. Ladd "
1896 roll page 496 #1355 Henry B. Ladd "
1896 roll page 496 #1356 James D. Ladd "

Joseph B. Ladd et al 2

1896 roll page 490 #1857 Tula V. Ladd Delaware District;
1896 roll page 490 #1858 Clara J. Ladd "

Q These six children were all born after you and your wife returned to the Cherokee Nation? A Yes sir.

Comr Breckinridge: The applicant applies for the enrollment of himself, wife and six children; he states that his wife is a native of the Cherokee Nation and that they were married in 1875, and that their marriage license and certificate have been destroyed; in 1877 he went with his wife to Kentucky, and staid there until 1XXXX the fall of 1880, having gone for the purpose of making the State of Kentucky his home; he came back too late to get upon the roll of 1880, and neither he nor his wife are upon that roll. Both of them are identified on the roll of 1896; the applicant will now be placed upon a doubtful card as an intermarried Cherokee, and he will be required to furnish an official copy of his marriage license and certificate, and attention is also called to Section 2, Article 1 of the Constitution of the Cherokee Nation, in connection with the fact stated by the applicant that neither he nor his wife have ever been re-admitted by the Cherokee National Commission or Council. His wife as a native Cherokee will be placed upon a doubtful card with her husband.

Of the six children enumerated in the testimony the first five are identified with their parents on the roll of 1896; they are all living at this time and they will be listed as native Cherokees upon a doubtful card. And when proper certificate is presented as to the youngest child XXXXXX Mattie Pearl, she will also be listed as a native Cherokee upon a doubtful card.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

MDGreen

Subscribed and sworn to before me this 29 day of September 1900.

C R Breckinridge

Commissioner.

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Cherokee D 470

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Joseph B. Ladd for the enrollment of himself wife and children as Cherokee citizens.

Appearances:
George E. McCullough, Vinita, I. T., attorney for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that his case would be taken up by the Commission on the 27th day of February,1902,- receipt has been acknowledged of the Commission's letter and the applicant on this day the 27th day of February 1902 appears by his attorney, George E. McCullough, of Vinita, I. T.

BY COMMISSION OF ATTORNEY McCULLOUGH: Any statement you desire to make relative to this case? A I have some testimony to introduce.

JOSEPH B. LADD, being first duly sworn and being examined testified as follows:
BY MR. McCULLOUGH:

Q You are Joseph B. Ladd, the applicant in this case? A Yes sir.
Q You stated in your testimony before the Commission on September 1900 that you had gone to Kentucky to live; I wish you would expalin to the court how that was you went there? A Well, I moved to this country and my mother was old and she wrote for me to come back; she was in Kentucky; she wrote for me to come back and take care of her as long as she lived; and in the spring of '77, or early in the winter, February 15th, I went back; and of course I aimed to make it my home as long as I lived there; wherever a man is at that is his home as long as he lived there; but as quick as I got there I aimed to come back as quick as I could get back.
Q What were your intentions when you left the Indian Territory in regard to coming back? A I thought it was possible I would come back; my mother was the main cause of my going; I left property here; I thought probably I would return sometime.
Q What property did you leave here? A I left some lumber, flooring and a door shutter, and my wife left a wash kettle.
Q What was your object in leaving this property? A Principally to hold our right; my father-in-law told his daughter she had better leave some property here to hold her right, and we left that here, in case we should ever come back.
Q How long did you stay there? A Better than three years, I went in February, '77, and back fall of '80.
Q Why didn't you come back here sooner? A I was not able; I would have come back a good deal earlier but I was not able; I was poor at that time and was not in shape to get back before.
Q You say you returned in the fall of 1880? A Yes sir, fall of '80 I returned, 17th or 18th of November is my recollection.
Q What has been your standing as a Cherokee citizen since you came back here? A Why they recognized me as a legal citizen.
Q How have they recognized you? A By voting and drawing the pay every time they paid out money they paid it to me.
Q Have you always voted in every election since you came back? A Yes sir, generally always voted in every election.
Q Was your right to vote ever questioned? A No sir.
Q Have you participated in all of the payments since 1880?
A Yes sir, I have drew money in every payment that has been paid out, me and my family.

Q Then at the time you moved you say you made preparations to come back to the Territory? A Yes sir; when I got there I was bad dissatisfied and would have come back the next fall if I had been able, and I had to stay until I could get full handed enough to come back. Things had changed there from what I supposed they was, and I was dissatisfied, and my mother was one cause; she died a year or two after I went back there and I didn't care anything about staying there then.

Q You and your wife have always lived together here? A Yes sir, been here ever 20 years, ever since the fall of 1880, never have been out of the Territory.

Q You now reside in the Cherokee Nation do you? A Yes sir.

Q With your wife and minor children? A Yes sir.

BY MR. HASTINGS:

Q Your mother was alive when you went back to Kentucky? A Yes sir.

Q You didn't know how long she was going to live? A No sir.

Q Of course you intended to live with her there as long as she lived? A Well I didn't know; I stayed there as long as she lived.

Q Well that was your intention? A No, not altogether.

Q Well, but when you left here? A Yes, when I left here I thought probably I would stay as long as she lived; I didn't know that I would but that was one cause of my leaving.

Q What was any other cause? A She wantedme to come back and help take care of her.

Q Well was there any other cause? A I was a little dissatisfied with the country myself here.

Q And you intended to go back to Kentucky to live at that time when you left here? A Yes sir, awhile; of course I aimed to make it my home as long as I lived there.

Q That was indefinite; you didn't know how long you intended to lived there when you left here? A No sir.

Q You might have intended to live there all of your life, you didn't know, when you left here? A No.

Q How much lumber did you leave here? A I left the flooring to a house.

Q About how much wasit worth? A Well now you can count it, the house was about 14 x 16 I think.

A It was rough flooring for that house, and the lumber was about $1.25 a hundred I think.

Q 14 by 16 would be 224 feet, at a dollar and a quarter per hundred would be $2.80 worth of lumber; what else did you leave? A Washing kettle,

Q And what else? A I had a door shutter to the house; I had it made myself.

Q What was that worth? A Dollar and a quarter.

Q What was your kettle worth? A It cost me a dollar and a half,

Q That would be $5.75 worth of stuff you left here all told; of course you left that to retain your citizenship? A Yes sir.

Q You had that specially in mind when you left? A Well, yes sir.

Q You didn't know that you xx ever intended to come back to this country? A Oh no I didn't know whether I ever would or not. When I got to Kentucky I said I would come back.

BY MR. McCULLOUGH:

Q You said that you didn't know whether you would ever come back or not; what did you mean? A I didn't know how long I would live there.

Q Didn't know whether you would live to come back or not? A No I didn't know whether I would live to come back or not; I concluded as soon as I got to Kentucky that I would come back.

BY MR. HASTINGS:

Q That was after you got to Kentucky? A Yes sir.

Q But when you left here you didn't know? A No sir.

DAVID W. VANN, being first duly sworn and being examined testified as follows:

BY MR. McCULLOUGH:

Q Stateyour name to the court? A David W. Vann.

Q Where do you live? A I live at Fairland, Delaware District.

Q Do you know Joseph B. Ladd, the claimant in this case? A Yes sir. He is my brother-in-law, married my sister.

Q Do you remember of his being married to your sister? A Yes sir.

Q When was that, do you remember? A It was about '75 I believe; that is when he married in this country; he married my sister in Kentucky first in '74 and come here and was re-married and under Cherokee laws, I think it was about '75.

Q Do you know of his going back to Kentucky after he was here? A Yes sir.

Q About how long did he live here before he returned? A I think about two years two or three years, I don't know exactly. I am right poor on dates, I can't remember.

Q How near did you reside to him at this time? A Why he lived in the house with us half of the time I guess; I was with my father; then he lived not over a mile and not over two miles, any time that he was here; when he left he was living in about a mile or a mile and a half of where we lived.

Q At the time he returned to Kentucky did you remember of hearing him express any intention of staying? A -

BY MR. HASTINGS: I am going to object to that.

A I never heard him say anything about it.

Q Well make any statement of what you have heard her say? A She always in talking about it she said she aimed to come back, and she aimed to come back sometime or another, and she didn't want to go, but then he kinder controlled her and carried heroff.

Q You know whether or not at that time they left any property here? A Well I know of them leaving a kettle I believe it was, and some lumber he had; he was in a house, in Sallie Ballard's house I believe it was, and she furnished the lumber, and he had some flooring there and when he left my father took it out; he left the lumber there with him and a door I think, just an old house wasn't fit for anything, and the lumber she let him take it out, didn't claim it at all.

BY MR. HASTINGS:

Q Old lumber that had been used? A No it was new lumber; it was a little old log house, and they didn't have no house, that was all they could do to raise enough to go back, get a wagon and little shack of a pony team.

BY ATTORNEY McCULLOUGH:

Q Do you remember why they left that property here? A We talked over that, my father did and he said the Cherokee law was if they taken everything out that abandoned their claim and would have to prove up when they come back, and the understanding was if they left any property they would hold their rights when they wanted to come back; I remember we talked over that.

Q Is that the reason they left this property here at that time? A That is what we talked about at the time; thatis what I heardmy father and them talking about.

Q Do you remember when they returned to the Indian Territory? A Yes sir. Come right to our house it was in the fall of 1880.

Q Have they resided here ever since as husband and wife? A Yes sir, ever since. Been there in Delaware district ever since.

Q Do you know whether or not Mr. Ladd has participated in the elections here in the Indian Territory? A Yes sir, he always voted.

Q Do you know whether or not he had drawn any money as a Cherokee citizen in the payments made here since 1880?

BY MR. HASTINGS: The record shows that much better than the oral testimony.

BY MR. McCULLOUGH: Very well, I will withdraw that question; I didn't know about thatbeing a matter of record.

1894 pay roll of citizens of the Cherokee Nation examined and applicant's wife and children identified thereon as follows:
page 420 No.1661, Mary J. Ladd, Delaware District;
page 420 No.1664 Burnett Ladd, Delaware District;
page 420 No.1665 Henry Ladd, Delaware District;
page 420 No.1666 James Ladd, Delaware District;
page 420 No.1667 Tula Ladd, Delaware District;
page 420 No.1668 Clara F. Ladd, Delaware District.

Q Is that the only payment that they received money? A He was on every roll as I understood it.

BY MR. HASTINGS:

Q This lumber that you speak of was used in the house before he left there that Mr. Ladd occupied? A Yes sir.
Q It was just the lumber on the floor of a log cabin? A Yes sir of a log cabin, and a door to that.
Q He never had any farm when he left? A No, never had had one, never been able to put in one.
Q Only been here two or three years from Kentucky? A Yes sir.
Q And he went back to Kentucky? A Went back.
Q Before he didn't hardly have the effects to go back on? A No didn't have very much.
Q Left a wash kettle there with your mother? A With my mother.
Q What relation are you to this man? A He is my brother-in-law, married my sister.
Q What become of the lumber? A Why father had it there, put it up in the loft, in the barn there.
Q What ever became of it, just used it up there in the barn? A Yes. Just laid it up there in the barn.
Q What become of it? A It was there in the barn as long as it lasted
Q Your father used it to lay a loft in the barn? A Yes sir, it stayed there.
Q What became of the door? A The door shutter, it was there about the house there where we built a house at.
Q You built a house and used it? A Yes sir.
Q That was while he was gone? A Yes sir, while he was gone.
Q And that reduced his effects down to a wash kettle? A Yes sir.
Q What became of it? A It was left there, they had it there all the time; my mother had it there.
Q Used it? A Yes sir,
Q They went back to Kentucky in a wagon? A Yes sir.
Q Little unhandy to carry a wash kettle back with them? A I don't know, I guess it was.
Q I say it was a little unhandy to carry it back? A I guess it would have been to.
Q Little unhandy to carry that 225 feet of lumber back there?
A I guess it would have been.
Q And a little unhandy to carry that door back; whatever became of the washing kettle finally? A I don't know what.
Q Mr. Ladd was dissatisfied with this country himself wasn't he?
A I guess he was.
Q Well you know it don't you? A Yes sir.
Q You had heard him say before that he wanted to go back to Kentucky? A Yes sir.

APPLICANT, MR. JOSEPH B. LADD, re-called and further examined, testified as follows:

BY MR. HASTINGS:

Q You had no farm here? A No sir.
Q You had only been here a couple or three years from Kentucky?
A Yes sir, about that.
Q You had gotten dissatisfied with the country and wanted to go back? A Yes sir. Somewhat, had a notion to go back, and my mother encouraged me to come.
Q That father helped you along? A Yes sir.

Q What ever became of that lumber that was in your house? A Mr. Vann, it was left there, I left it with him and he used it after I went back, and when I came back he offered it to me, but I told him to keep it, I was sick.
Q What became of your door? A They used it in a side room at their house.
Q Whatbecame of your wash kettle? A It was in the family after I come back.
Q Did you ever get it after you came back? A Yes, my mother-in-law give it to my wife after we come.
Q You used it after you come back? A Yes sir.
Q I believe yousay youhad no farm after you came back? A No sir.
BY MR. McCULLOUGH:
Q Have you participated in the payments made in the Cherokee Nation to the Cherokees since your return in 1880? A Yes sir, drew them every one that has been made since 1880.

BY COMMISSION: The attorney for the applicants and representative of the Cherokee Nation present submit this case, and same is ordered closed and reported to the Commission for final decision, based upon the evidence of record. The attorney for the applicant requests and will be granted ten days in which to file brief in this case, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case and that the forgeing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28,1902.

Commissioner.

4855

No– D-470
Joseph B. Ladd

Brief for
Cherokee Nation

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 28 1902
ACTING CHAIRMAN

BEFORE THE COMMISSION TO THE FIVD CIVILIZED TRIBES,AT MUSCOGEE,I.T.

In the matter of the application of Joseph B. Ladd,for enrollment of himself and family as Cherokee citizens,

No 470.

Claimants' Brief.

In this case it is not denied that the claimant was legally married to a Cherokee woman,in 1875,in the Cherokee Nation,and thereby became a legal Cherokee citizen,entitled to all of the rights,privileges, and ~~emoluments~~ immunities of a citizen of the Cherokee Nation; and it is not denied that that right continued uninterrupted up to the Spring of 1877, when the claimant and his said wife removed to the state of Kentucky. By this removeal from the limits of the Cherokee Nation to the state of Kentucky,and his continued residence there for three years,it is now contended by the Cherokee Nation that the claimant herein forfeited his right,now,to claim citizenship, in the Cherokee Nation,and has forfeited all of his former rights and privileges as a Cherokee Citizen.

It is not denied that in the Fall of 1880 the claimant and his said wife returned to the Cherokee Nation,where they at once took up their residence and have ever since resided ,and now reside: that all of their children were born in the Cherokee Nation after their parents return; That he accumulated property here,raised his family,participated in the elections of the Nation by voting ,that his rights fro 1880,on up to his application for enrollment as a Cherokee citizen before the Commission to the Five Civilized tribes on Sept.29th,1900,was never questioned; that he and his entire family were regularly enrolled as Cherokees by the Cherokee authorities on the Roll of 1896. It is not denied that after his return in the year 1880,that he was recognized by the Cherokee Nation as one of its citizens,that he enjoyed all of the rights,privileges and ~~emoluments~~ immunities of a Cherokee citizen with the knowledge and consent of the Cherokee Nation,and that the Nation not only impliedly but expressly accorded to him and his family all of the rights and privileges that any other Cherokee citizen could enjoy by putting them on its rolls: that at no time or at no step in his life from 1880 up to Sept 29th,1900 was the question as to whether or not he was a citizen of the Cherokee Nation ever raised. Never, at any time was it claimed by any one while the claimant was exercising his rights as a Cherokee citizen that he had forfeited his citizenship by his removal to, and residence in the state of Kentucky. What then is the status of the claimant now? Is he a citizen of the Cherokee Nation? If not, why not?

Under Section 2, article One of the Cherokee constitution of the compiled laws of 1892, which defines the rights of the citizens with respect to the public Domain of the Cherokee Nation, also states the conditions under which citizens will forfeit their citizenship and rights in the Cherokee Nation, as follows:

> "And that whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease; provided, nevertheless, that the National Council shall have power to readmit, by law, to all the rights of citizenship, any such person, or persons who may, at any time, desire to return to the Nation, on memorializing the National Council for such re-admission."

The above gives one way in which a person may be readmitted to citizenship after having once forfeited his rights as a citizen. But, is this the only manner in which one's rights may be restored after they have been once forfeited? We believe not. We contend that the claimant and his family are still citizens for three reasons, viz:

First,-- their rights were never forfeited.

Second,-- If their rights were forfeited by the said removal and residence of the claimant in Kentucky, No forfeitur was ever declared by the Cherokee Nation.

Third,_- If the claimants did place themselves in a condition by which their rights might have been declared forfeited by the Cherokee Nation, the forfeiture was waived by the Cherokee Nation ~~now~~, and it cannot come in at this late day and ask this Commission to declare a forfeiture after it has been recognizing them as citizens by granting the claimant the right of suffrage, and has even put him and his family on its Rolls of 1896.

We have not the testimony before us that was last taken for the claimant on Feb.27th, as it has not been transcribed and sent to us, but our recollection of the claimant's testimony is as follows,- That the claimant left some little property here when he started for Knetucky in 1877 that his fatherinlaw told him and his wife that they would better leave some property here to hold their rights as Cherokee Citizens, and that with this end in view they left some lumber, and a kettle in the Cherokee Nation. True this was very little property, but it was left with the intent to hold their citizenship, which shows that it was not their intention to relinquish whatever rights they had here. People at that day were possessed of very little property here in the Nation, and it is possible that this was all they had to leave, as the rest was necessary to them on their journey to Kentucky. The evidence further shows that as soon as the claimany got to Kentucky he was dissatisfied and desired to return but that he was too poor to get back and on account of his poverty could not get back any sooner than he did. The evidence further shows that when they did return they received part of this property which they had left here. Strictly speaking, they did not "remove with their effects and become citizens of another government" In support of our contention we cite the following:-

Forfietures do not find favor in the law, and Courts are reluctant to declare and enforce them if, by reasonable interpretation, it can be avoided,-34 Am.St.R.566, s.c.Coleman vs Insurance Co, 49 Ohio state, 310; Forfeitures are not favored, and will not be enforced unless specifically and definitely provided for in the contract, notes to above.

Forfeitures are not favored either in law or Equity, Forfeitures are to receive a strict construction, when the intent is doubtful against those for whose benefit they are intended, Courts are reluctant to enforce forfeitures if by reasonable interpretation it can be avoided, Webster v Dwelling House Ins.Co, 83 Am.St.Rep.658. s.c.58 Ohio st.558 and notes. Forfeitures are not favored in law. They are often the means of great oppression and injustice, Knickerbocker Ins.Co, v Norton, 96 U.S. Book 24, p.689

A condition relied upon to work a forfeiture of title is construed with great strictness, New York Indians, vs United States, 170 U.S., Book 42,-927, pp 935 & 936.

II.

If the Claimant placed himself in a condition to have his citizenship forfeited, no forfeiture was ever declared by the Cherokee Nation:- This is not the case of a private grantor who may restore himself to his original condition on the happening of the event that works a forfeiture. There is a difference between such a condition and one in which a government is interested, and there must be some judicial investigation, or some appropriate legislation to enforce the forfeiture, New York Indians, vs U.S., 170, Book 42, pp 935 & 936. Book 35 U.S. 305, Rybee vs Oregon & Cal. R.R.Co. These cases show conclusively that where the legislature makes certain conditions to incur a forfeiture, that the performing of the prohibited conditions does not itself work the forfeiture, and make it complete, but that after the condition subsequent, there must be some judicial investigation, or some appropriate legislation in regard to the subject matter before the forfeiture is completed. To illustrate,- Adultery is a ground for divorce, but the commission of adultery does not of itself divorce the wronged party, but with this as a basis he must have a judicial investigation.

III.

Lastly, we contend that if there was any forfeiture of the citizenship of the claimant it was waived by the overt acts of the Cherokee Nation ~~and~~ recognizing him as a citizen after his return, according him the rights of a citizen by allowing him to vote at their elections and in putting him upon its Rolls as a Cherokee citizen. By such a course of Conduct we claim the Nation is now estopped from saying to him you have forfeited your rights with us. The Nation was willing enough to have his patronage and influence as a voter and a citizen, and whatever good the state may acquire by or from a citizen, the Cherokee Nation claimed from him, and reposed upon his allegiance and fealty. The Nation put him upon its Rolls of 1896 without question. Can it say now, "well we are done with you; We used you as long as it was profitable for us to do so, but it will be no longer advantageous for us to hold on to you. We have a chance by which we can now politely but decidedly separate ourselves from you, so here goes. You have been unfortunate but we cannot help that. We held you up for twenty years and let you be one of us and you were, and we do not deny that, but we rather believe the law will stay with us on our proposition, at any rate we are going to risk it."

In support of a waiver of forfeiture by the Cherokee Nation, we cite the following authorities:-

New York Indians vs U.S. 170.U.S.Book 42, pp93 & 96; A forfeiture will be deemed to be waived by any agreement, declaration, or course of action on the part of him who is benefitted by such forfeiture which leads the other party to believe that by conforming thereto the forfeiture will not be incurred, 54 Am.St.R.550, c.c. Hudson vs North.Pacf. Ry.Co 92 Iowa, 231; Book 24 U.S.689, Knickerbocker Ins,Co.vs Norton.

In Ins,Co.v Eggleston, 96 U.S. 577 the Court said that the Courts are always prompt to seize hold of any circumstances that indicate an election to waive a forfeiture, or an agreement to do so on which the party has relied and acted. This same case is reviewed and quoted in Phoenix Ins,Co.vs Doster, 106 U.S. Book 27 p.65, read on page 67.

See also Agricultural Ins,Co v Potts, 39 Am.St.R. [illegible] notes thereto and notes to Home Fire Ins,Co vs Kennedy, 53 Am St. R. 526, which says: If an Insurance Company, after knowledge of a breach of condition in its policy enters into negotiations or transactions with the insured, which recognize the policy as still in force, and induce the insured to incur trouble or expense, it waives the right to insist upon a forfeiture.

To recapitulate: The conditions of forfeiture of citizenship by the claimant not only depended upon his removal from the limits of the Cherokee Nation, but it must be with his effects, and he must become a citizen of another Nation. These three things must occur absolutely and at all events before a forfeiture could have been declared. If we look at the evidence we will see that all of these conditions were not fulfilled. The evidence is that he did not take all of his effects, and there is no evidence that he became a citizen of any other government. The burden of proving this is on the Cherokee Nation. Three things the Cherokee Nation must show in order to defeat the claimant's right: 1st. That he removed from the Cherokee Nation, with his effects, and became a citizen of another government. 2nd. That after he had done this and incurred the danger of forfeiture, the Nation so declared by some judicial proceeding, or by some appropriate legislation that his rights had been forfeited and that he was no longer a citizen of the Cherokee Nation, and not entitled to any of its rights, privileges and immunities. 3rd. That it has not recognized him in any manner since his return from Kentucky to the Cherokee Nation in 1860 as a Cherokee citizen, and not granted him either directly or indirectly, any rights, privileges or immunities in such a manner as to waive any forfeiture he might have incurred. If it can show these the claimant's case falls to the ground. If it cannot, his claim is good and he and his family are entitled to be on the Rolls.

Trusting that we have not made this brief too long, and believing that we have rightfully interpreted the law as we have found it we remain,

Very Respectfully,

Smith and McCulloch, By,

Geo E McCulloch

Vinita, I.T.

Supplemental:-

The question being whether the plaintiff at a certain time changed his residence from Iowa to Illinois, the jury were correctly told that he did not gain a citizenship in Illinois when he went there unless he in good faith left Iowa and, giving up his residence there, went to Illinois, and actually and in good faith took up his permanent residence in that state at that time, Chicago & Northwestern Ry Co, vs Gus B.Ohle, 117 U.S. Book 29, 837.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 11, 1902.

In the matter of the enrollment of
Joseph B. Ladd for the enrollment of
himself, wife and six children as cit-
izens of the Cherokee Nation.

Cherokee D. 470.

Brief of the Cherokee Nation.

~~########~~

The applicant applies for the enrollment,of himself, wife and six children: he applies for his wife and children as Cherokees bY blood, and for himself as a citizen bY intermarriage; but he presents no marriage license nor does he present anY proof of his marriage to his wife under the Cherokee law. He originallY came from the state of KentuckY, married in the Cherokee Nation in about 1875, and returned to KentuckY for the purpose of making it his home; and returned to the Cherokee Nation too late for his name to be placed upon the roll of 1880. Attention is called to the statement made bY ~~him~~ Commissioner Breckinridge who heard the original application in the field on September 29, 1900, which we think properlY states the facts in the case and the law applicable to it.

It will be noticed at that time that the applicant repeatedlY stated that he left the Cherokee Nation and went back to the state of KentuckY for the purpose of making it his home; that he moved there to live without anY intention of returning to the Cherokee Nation. His mother, who was a citizen of the state of KentuckY, was alive at that time and lived a Year or two after he moved back there, when she died, and subsequent to that time in the latter part of the Year 1880 he became dissatisfied with his home in KentuckY and returned to the Cherokee Nation. There is not the slightest evidence in his original testimonY of his having left anY effects within the limits of the Cherokee Nation or of his purpose to return thereto at anY future time. And it seems quite clear that Joseph B. Ladd, the applicant, became dissatisfied with this countrY and he concluded to remove with his wife and familY back to the state of his birth for the purpose of making it his future home in 1877. He had no home here, and in fact had no effects in the Cherokee Nation; all that he had was put in a wagon and carried with him. Subsequent testimonY, however, develops the fact that he had $5.85 worth of old flooring, which was left in a log cabin, a door shutter and a wash kettle.

Perhaps of all the cases submitted to the Commission the one here assigned is the most flimsY pretext we have noticed. CertainlY the Commission will not believe for a moment, taking into consideration his testimonY, that he had anY intention of returning here, or that he left this old flooring for the purpose of retaining his citizenship, because this is contradicted bY the fact that the flooring in this little old log cabin was taken up and used, as well as the door shutter, while the wash kettle was left behind, if he had anY, because of it being too heavY to carrY with him. But, as above observed, this application was first made on September 29th, 1900, and it was ~~November~~ FebruarY 27th, 1902, about eighteen months after the first application, before the applicant could remember that he had left even these effects here in order to retain his citizenship. We think it quite clear, as did the Commissioner who originallY examined the case, that the applicant left with the intention of making his home in KentuckY; and that it was necessarY for him to have been re-admitted to citizenship in the Cherokee Nation upon his return, as he states in the Fall of 1880.

RespectfullY submitted,

Attor neY for the Cherokee Nation.

D470

Cher D 470

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 13, 1902.

In the matter of the application of JOSEPH B. LADD, for the enrollment of himself as a citizen by intermarriage, his wife, MARY J. LADD, and his children, BURNETT, HENRY E., JAMES D., TULA M., CLARA L. and MATTIE P. LADD, as citizens by blood, of the Cherokee Nation:

JOSEPH B. LADD, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Joseph B. Ladd.
Q What is your age ? A Fifty two.
Q What is your post office ? A Rose.
Q Are you the same Joseph B. Ladd who made application to this Commission for enrollment as an intermarried citizen of the Cherokee Nation in September, 1900 ? A Yes sir.
Q What is your wife's name ? A Mary J.
Q Is she a citizen by blood of the Cherokee Nation ? A Yes sir.
Q When were you married to her ? A In 1875 the second time.
Q Where were you married the first time ? A In Kentucky.
Q How long after your first marriage before you and she came to the Indian Territory ? A We came that year.
Q Well, were you and she married again after you came to the Territory ? A Yes sir.
Q Did you take out a Cherokee license ? A Yes sir.
Q When were you married under that Cherokee license ?
A In 1875.
Q Were you ever married prior to your marriage to your wife Mary J ?
A No sir.
Q Was she ever married prior to her marriage to you ?
A No sir.
Q Have you and she lived in the Cherokee Nation ever since 1875 up to the present time ? A No sir, with the exception of about three years and better I was in Kentucky. I came back from there about 1880. The fall of 1880.
Q Then you came back here in the fall of 1880 the last time ?
A Yes sir.
Q Did your wife go toKentucky with you ? A Yes sir.
Q Were you in Kentucky when the 1880 roll was made ?
A Yes sir, we came home that fall.
Q Have you lived in the Cherokee Nation all the time since 1880 to the present time ? A Yes sir.
Q Has your wife lived here with you all the time ? A Yes sir.
Q Have you and your wife Mary J., lived together in the Cherokee Nation as husband and wife from the date of your marriage up to the present time ? A Yes sir.
Q Were you living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q These children, Burnett, Henry E., James D., Tula M., Clara L., and Mattie P., all your children by your wife Mary J ?
A Yes sir.
Q Are they all,living at this time ? A Yes sir.
Q Have they lived in the Cherokee Nation all their lives ?
A Yes sir.

Examined by J. C. Starr:

Q What did you go to Kentucky for ?
A I lived there until the spring of 1877.

Q Did you go there to make it your home ?
A Yes sir, as long as I lived there I did.
Q How long did you live there ? A Three years.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 22, 1902.

B C Jones
Notary Public.

0742

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joseph B. Ladd et al for enrollment as Cherokee citizens, consolidating the applications of:

Joseph B. Ladd et al	Cherokee D 470
Maud Baker et al	Cherokee D 473

DECISION.

The record in these cases shows that on September 29, 1900, Joseph F. Ladd and James W. Baker appeared before the Commission at Vinita, Indian Territory, and made their respective applications as follows:

Joseph B. Ladd applied for the enrollment of his wife, Mary J. Ladd, and his minor children, Burnett A., Henry F., James D., Tula M., Clara L. and Mattie P. Ladd, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

James W. Baker made application for the enrollment of his wife, Maud Baker, and his minor child, Goldie M. Baker, as citizens by blood of the Cherokee Nation.

Further proceedings were had in the matter of said applications at Muskogee, Indian Territory, on February 27, and October 13, 1902.

The evidence shows that the said Joseph B. Ladd was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation, in April 1875, to one Mary J. Vann. On examination of the Cherokee tribal rolls in the possession of this Commission, it appears that the said Joseph B. Ladd is identified on the Cherokee census rolls of 1880 and 1896; that his wife, Mary J. Ladd, is identified on the Cherokee pay rolls of 1883, 1886 and 1894, and on the Cherokee census rolls of 1890 and 1896; that his child, Burnett A., is identified on the Cherokee pay rolls of 1886 and 1894, and the Cherokee census rolls of 1890 and 1896; that his children, Henry E., and James D., are identified on the strip payment roll of 1894 and the Cherokee census rolls of 1890 and 1896; that his children, Tula M. and Clara L. Ladd, are identified on the Cherokee pay roll of 1894 and the Cherokee census roll of 1896, and that Mattie P. Ladd is identified by a birth affidavit made a part of the record herein.

The evidence further shows that the above named Maud Baker is the daughter of Joseph B. Ladd and Mary J. Ladd, his wife. An examination of the tribal rolls in the possession of this Commission, shows that the said Maud Baker is identified on the Cherokee pay rolls of 1883 and 1886, and on the Cherokee census rolls of 1890 and 1896. She was married to her husband, James W. Baker, in 1898, and her child, Goldie M. Baker, is the issue of that marriage. Goldie M. Baker is identified by a birth affidavit on file made a part of the record herein.

The evidence further shows that none of the above adult applicants appear on the authenticated tribal roll of 1880. It appears that

Joseph B. Ladd and his wife, Mary J. Ladd, remained in the Cherokee Nation about two years following their marriage; that in the spring of 1877 they went to Kentucky and returned to the Cherokee Nation in November, 1880, where they have resided and been living together as husband and wife, up to and including September 1, 1902. The above named Maud Baker and the other children of the said Joseph B. and Mary J. Ladd herein mentioned, have resided in the Cherokee Nation since the date of their birth.

Article II of the treaty concluded between the United States and the Cherokee Nation, at Tahlequah, Indian Territory, on December 19, 1891, approved by the principal chief on January 4, 1892 and ratified by an act of Congress approved March 3, 1893, (27 Stats., L. 612-641), provides as follows:

"For and in consideration of the above cession and relinquishment, the United States agrees:

First. That all persons now resident, or who may hereafter become residents, in the Cherokee Nation, and who are not recognized as citizens of the Cherokee Nation by the constituted authorities thereof, and who are not in the employment of the Cherokee Nation, or in the employment of citizens of the Cherokee Nation, in conformity with the laws thereof, or in the employment of the United States Government, and all citizens of the United States who are not resident in the Cherokee Nation under the provisions of treaty or acts of Congress, shall be deemed and held to be intruders and unauthorized persons within the intent and meaning of section six of the treaty of 1835; and sections twenty-six and twenty-seven of the treaty of July 19, 1866, and shall, together with their personal effects, be removed without delay from the limits of said nation by the United States, as trespassers, upon the demand of the principal chief of the Cherokee Nation."

Upon examination of the lists of intruders and unauthorized persons residing in the Cherokee Nation, furnished by the principal chief, pursuant to said treaty which lists bear date of 1893 and are now in possession of the Commission, it appears that the names of none of said applicants are found thereon. On the contrary, it appears that Joseph B. Ladd is identified on every census roll, and his wife, Mary J. Ladd, is identified on every tribal roll of said nation made since their return from Kentucky.

It is, therefore, the opinion of this Commission that Joseph B. Ladd should be enrolled as a citizen by intermarriage of the Cherokee Nation, and that Mary J. Ladd, Burnett A. Ladd, Henry E. Ladd, James D. Ladd, Eula M. Ladd, Clara L. Ladd, Hattie P. Ladd, Maud Baker and Goldie F. Baker, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this DEC - 1 1902

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. December 16th 1902.

In the matter of the application of Joseph B. Ladd for the enrollment of himself and family as citizens of the Cherokee Nation., consolidating the cases of:

Joseph B. Ladd et al------ Cherokee D 470

Maud Baker et al Cherokee D--473.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission in the above cases and asks that same be forwarded to the Honorable Secretary of the Interior for Review..

The Proof shows that Joseph B. Ladd is a white man and that he originally came from the state of Kentucky, married into the Cherokee Nation in about 1875 and returned to Kentucky for the purpose of making his home; he came back to the Cherokee Nation too late for his name to be placed upon the authenticated roll of 1880. Attention is called to the statement made by Commissioner Breckinridge, who heard the original application in the field on September 29th 1900, which we think properly states the fact in this case and the law applicable to it..

It will be noted that the applicant at that time repeatedly stated that he left the Cherokee Nation and went back to the State of Kentucky for the purpose of making it his home; that he moved there to live without any intention of returning to the Cherokee Nation. His mother who was a citizen of the State of Kentucky was alive at that time and lived a year or two after he moved back there when she died and subsequent to that time in the latter part of the year 1880 he became dissatisfied with his home in Kentucky and returned to the Cherokee Nation. There is not the slightest evidence in the original testimony of his having left any effects within the limits of the Cherokee Nation or of his purpose to return thereto at any future time. And it seems quite clear that Joseph B. Ladd, the applicant, became dissatisfied with this country and he concluded to remove with his wife and family back to the state of his birth for the purpose of making it his home in 1877. He had no home here; and in fact had no effects in the Cherokee Nation; all that he had was put in a wagon and carried with him.. Subsequent testimony, however, develops the fact that he had $5.85 worth of flooring which was left in a log cabin; in that it was old flooring; a door shutter and a wash kettle.. Perhaps of all the cases submitted to the Commission the pretext here assigned is perhaps the most noted. Certainly it can not be believed pleaded for a moment taking into consideration that he had no intention of returning here or that he left this flooring for the purpose of retaining his citizenship because this is contradicted by the fact that the flooring in this little old log cabin was taken up and used as well as the door shutter, while the wash kettle was left behind, if he had one, because of it being too heavy to carry with him. But as above observed this application was first made on September 29th 1900 and it was February 27th 1902 about eighteen months after the first application before the applicant could remember that he had left even these effects here in order to retain his citizenship.

The Act of Congress of June 10th 1896 provided: " That in determining all such applications said Commission shall respect all laws of the several xxxxxx nations or tribes not in consistent with the laws of the United States and all treaties with either of said nations or tribes and shall give due force and effect to the xxxxx rolls, usages and customs of each of said nations or tribes"

Not the act of June 7th 1897 defines the "Rolls" of citizenship to mean the "Last authenticated rolls" of the Cherokee Nation which is the roll of 1880 and it will be observed that none of the names of the applicants appear upon said roll of 1880.

Article I Section 2 of the Constitution of the Cherokee Nation provides "That whenever any citizen shall remove with his effects out of the limits of this nation and becomes a citizen of any other government, all of his rights and privileges as a citizen of this nation shall cease; provided nevertheless that the National Council shall have power to readmit by law, to all of the rights of citizenship any such person or persons who may at any time desire to return to the Nation on memmoralizing the National Council for such readmission."

Now if as commanded by the act of Congress of June 10 1896 the Commission is compelled to respect the laws of the Cherokee Nation we do not see how the applicants can be admitted if the above claus of the Cherokee Constitution is respected. It is confessed by the applicant himself that he removed from the Cherokee Nation with his effects and that he went to the State of Kentucky for the purpose of making it his home andxkh that he was never readmitted by any tribunal having jurisdiction.

We are frank to say that it is not clear to us upon what theory the Commission admitted these families and the argument used in their decision of date December 1st 1902 to the effect that the names of these applicants do not appear upon an intruder roll is simply astounding to the representatives of the Cherokee Nation. If this fact was evidence of citizenship nine-tenths of the whitemen in the Cherokee Nation could appear before the Commission, represent that they were entitled to citizenship in the Cherokee Nation and say that their names do not appear upon the intruder roll. The Cherokee Nxxxxxx Constitution recognizes no negative action, and no one is entitled to admission in the Cherokee Nation because od negative proof but it was necessary under the Cherokee constitution for this man to have been readmitted; in other words there must have been an affirmative act readmitting this family to citizenship in the Cherokee Nation after he removed to the state of Kentucky, upon his return to the Cherokee Nation.

We think it quite clear as did the Commissioner who originally examined the case that the applicant left with the intention of making his hxx home in Kentucky and that it was necessary for him to have been readmitted to citizenship in the Cherokee Nation upon his return as he states in the fall of 1880.

Respectfully submitted,

W W Hastings JCS

Attorney for the Cherkkee Nation.

Attest: J C Starr

Stenographer for the Cherokee Nation.

E C M

Cherokee 10091.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of JOSEPH B. LADD as a citizen by intermarriage of the Cherokee Nation.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory September 29, 1900 application was received by the Commission to the Five Civilized Tribes for the enrollment of Joseph B. Ladd as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 27, 1902, October 13, 1902 and January 2, 1907. The records further show that on December 1, 1902 the Commission to the Five Civilized Tribes rendered its decision herein granting said applicant the right to enrollment as a citizen by intermarriage of the Cherokee Nation.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Joseph B. Ladd, is a white man and neither claims nor possesses any right to enrollment as a citizen of the Cherokee Nation other than such right as he may have acquired by virtue of his marriage in accordance with Cherokee law April 8, 1875 to his wife, Mary Josephine Ladd, nee Vann, who was at the time of said marriage a recognized citizen by blood of the Cherokee Nation, having been admitted to citizenship therein by the duly constituted authorities of said Nation in 1874, and whose name is included on the approved partial roll of citizens by blood of the Cherokee Nation opposite No.26794. It is further shown that in 1877 the said Joseph B. Ladd and Mary Josephine Ladd removed to the State of Kentucky where they resided for a period of about three years, returning to the Cherokee Nation in 1880; that said removal was made with no definite intention of returning to the Cherokee Nation or retaining their home in said Nation; that said removal therefrom and continued residence in the State of Kentucky constituted an abandonment of their citizenship in the Cherokee Nation. It is also shown that from the time of their marriage the said Joseph B. Ladd and Mary Josephine Ladd resided together as husband and wife and continuously lived in the Cherokee Nation up to and including September 1, 1902. Neither the applicant herein, Joseph B. Ladd, nor his wife, the said Mary Josephine Ladd, can be identified on the Cherokee authenticated tribal roll of 1880.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That the decision rendered by the Commission to the Five Civilized Tribes December 1, 1902, granting the application for the enrollment of Joseph B. Ladd as a citizen by intermarriage of the Cherokee Nation, be rescinded, set aside and held for naught, and that in accordance with the decision of the Supreme Court of the United States dated November 5, 1906 in the cases of Daniel Red Bird, et al. vs. the United States, Nos. 125, 126, 127 and 128, the said applicant, Joseph B. Ladd is not entitled, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats. 495), to enrollment as a citizen by intermarriage of the Cherokee Nation, and his application for enrollment as such is accordingly denied.

Dated at Muskogee, Indian Territory

this FEB ________________.

Commissioner.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

Cherokee D 470.
Cherokee D 473.

Muskogee, Indian Territory, December 2, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, granting the application of Joseph B. Ladd for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Mary J. Ladd, and his six minor children, Burnett A., Henry E., James D., Tula M., Clara L. and Mattie P. Ladd, and the application of James W. Baker for the enrollment of his wife, Maud Baker, and his minor child, Goldie M. Baker, as citizens by blood, of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in these cases, copies of which protest you will be required to serve upon the applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 1.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:

Cherokee D-470.
Cherokee D-478.

Muskogee, Indian Territory, December 30, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 1, 1902, granting the application of Joseph B. Ladd for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Mary J. Ladd, and his six minor children, Burnett A., Henry E., James D., Lula M., Clara L. and Mattie P. Ladd, as citizens by blood of the Cherokee Nation; and the application of James W. Baker for the enrollment of his wife, Maud Baker, and his minor child, Goldie M. Baker, as citizens by blood of the Cherokee Nation, a copy of which decision was furnished you December 2, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T B Needles

Commissioner in Charge.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

[illegible]

Cherokee D-470-3.

Muskogee, Indian Territory, February 11, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 1, 1902, granting the application of Joseph B. Ladd for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Mary J. Ladd, and his six minor children, Burnett A., Henry E., James D., Tula M., Clara L. and Mattie P. Ladd, as citizens by blood of the Cherokee Nation, and the application of James W. Baker for the enrollment of his wife, Maud Baker, and his minor child, Goldie M. Baker, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on January 30, 1903.

Respectfully,

Acting Chairman.

REFER IN REPLY TO THE FOLLOWING:
Cherokee 10091

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 28, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, rejecting the application for the enrollment of Joseph B. Ladd as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of same.

Respectfully,

Commissioner.

Enc. M-19
MH

470

N THE MATTER OF THE APPLICATION OF

Joseph B. Ladd et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Sep 29 1900.
B. Memo of application. Sep 29-1900.
C. Certified copy of marriage record (2)
D. Certificate of marriage.
E. Affidavit of birth Mattie P. Ladd
[illegible]

J Notice of final consideration, 2/27/02
G Receipt for testimony
H Supp test & order closing test 4/27/02
[illegible] red
[illegible]

See Cherokee Jacket No. D 1209.

Cher D 471

Cher D 471

R 197

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 17 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 29th, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN B. GRAY FOR THE ENROLLMENT OF HIMSELF AND HIS WIFE AND HIS WIFE'S SISTER, A MINOR CHILD AS CHEROKEE CITIZENS; AND ALSO FOR THE ENROLLMENT OF HIS OWN CHILD CECIL GRAY.

The said John B. Gray, being sworn and examined by Commissioner T. B. Needles, testified as follows;

Q What is your name? John B. Gray.

Q How old are you? A Twenty-nine years old.

Q What is your postoffice address? A Afton.

Q What district do you live in? A Delaware District.

Q Are you a recognized citizen of the Cherokee Nation? A Only by intermarriage.

Q By intermarriage? A Yes, sir.

Q For whom do you apply? A For my wife and my wife's sister.

Q And yourself? A Yes, sir; and myself.

Q When were you married? A In 1898.

Q What is your wife's name? A Ona Gray.

THE COMMISSIONER: The applicantpresents marriage license duly authenticated, and a marriage certificate certifying that he was married to one Ona Pierce on the 27th day of April, 1898.

Q Were you married by United States law at the same time? A Yes, sir.

THE COMMISSIONER: And he presents also marriage license and certificate certifying that he was married according to the law of the United States on the 8th day of April, 1898.

Q How old is your wife? A She is twenty-one years old.

Q What degree of Indian blood has she? A I don,t know just what degree she has.

Q What is her father's name? A Tom Pierce.

Q Is he living? A No, sir.

Q What is her mother's name? A Josie.

Q Is she living? A No, sir.

Q How long have you lived in the Cherokee Nation? A I have lived in the Cherokee Nation a little over six years.

Q Were you ever married before? A No, sir.

Q Was your wife ever married before? A No, sir.

Q Have you been living continuously with your wife since you were married? A Yes, sir.

Q In the Cherokee Nation? A Yes, sir.

Q What are the names of your children? A Cecil Gray.

Q How old is Cecil? A He will be seven months old next month.

THE COMMISSIONER: The applicant presents satisfactory proof of birth of his child Cecil Gray, whose name does not appear upon the census roll, having been born since said roll was compiled.

Q Was your wife's name on the 1880 Roll, A No, sir; I don't think it is.

Q By what right does she claim citizenship? A Well, I have some papers here.

Q Let's see them. (Exhibiting papers) Her name does not appear on these. A She gets citizenship through that. Her mother's name is on there somewhere.

Q What is her mother's name? A Josie Pierce.
Q There is nobody's name on her but Dawson.
Q Well, my wife's mother was a Dawson.
Q What was the name of your wife's mother? A Josie.
Q Is she living? A No, sir; she is dead.
Q Well, sir, we can't enroll you until you have got some evidence. You have got no evidence here, if these are all the papers you have got.

(Applicant hands more papers to Commissioner)

Q Your wife's name is not on here at all. You say her mother's name was Dawson? A Yes, sir. Her name was Pierce on that one.

Q Her name is not on here. You will have to bring some other evidence. There is no Pierce here at all. You say her mother is dead? A Yes, sir; her mother has been dead about seven years.

Q Where do you live? A At Afton.

By Mr. Preston C. West, Representative of Cherokee Nation.

Q What relation is your wife to W. A. Dawson?
A You mean doctor Dawson?
Q No, he is not a doctor that I know of.
Q How old is your wife? A She is twenty one years old.

THE COMMISSIONER: The applicant presents certificate of admission to Cherokee citizenship issued by the proper officers of the Commission, on the 11th day of January, 1883, duly certified to, signed by Thomas Tehee, president of the Commission, Clark Wolfe and T. F. Thompson, Commissioners, certifying that one Josephine Dawson was admitted to citizenship on the 11th day of January 1883. The applicant swears that his wife is the daughter of Josephine Dawson, but he believes that her name was Josephine Pierce. Said certificate of admission is dated 1883.

1896 Roll, page 815, No. 2379, Oma Pierce, Delaware District.

1896 Roll, page 442, No. 2863, Naoma Pierce, Delaware District.

THE COMMISSIONER: The name of the applicant's wife appears upon the census roll of 1896. The name also appears upon the pay roll of 1894. The applicant presents satisfactory proof of marriage to said Oma Pierce according to the laws of the Cherokee Nation, said marriage being solemnized in the year 1898. He swears that his wife's mother was named Josie Pierce, and that she was admitted by that name in the year 1883, but presents no proof of admission. The only proof as to citizenship presented is the fact that his wife's mother, Josephine Dawson was admitted in the year 1883. He also presents satisfactory proof of birth of the child Cecil Gray. The testimony shows that the said John E. Gray who married to the said Oma Pierce, who claiming to be a citizen by blood, in the year 1898, too late for intermarried whites to receive any rights and benefits as citizens of the Cherokee Nation under their laws. Consequently the application of John E. Gray for the enrollment of himself will be rejected.

MR. PRESTON C. WEST: (Representative of the Cherokee Nation) The Nation desires to object to the enrollment of both the others on the ground that the name in the certificate of admission is not the name alleged by the applicant to be the name of his wife or of his wife's mother; and further if the name is that of his wife's mother the Nation objects to their enrollment for the reason it is alleged that the admission of the Dawsons to citizenship was fraudulently procured.

THE COMMISSIONER: There being no satisfactory proof as to the citizenship of the wife of the applicant, final judgment as to her application for enrollment will be suspended from the fact that her name does not appear upon any of the rolls, and from the further fact that the Cherokee Nation, by its representative, protests against the enrollment of Josephine Dawson, the alleged mother of the applicant's wife. Consequently the names of his wife Oma Gray and his child Cecil Gray will be placed upon a doubtful card.

THE APPLICANT: I desire to apply for this child.

THE COMMISSIONER: The applicant applies also for the enrollment of Effie Pierce, a minor child.

Q How old is Effie Pierce? A Seventeen years old.
Q What is her father's name? A Tom Pierce.
Q Is he living? A No, sir.
Q What is her mother's name? A Her mother's name is Josie. Her name was Kelley when she died.

1896 Roll, page 515, No. 2361, Effie Pierce, Delaware District.

Q Did Effie draw money in 1894? A She did in 1896.
Q I am asking you about 1894.
Q Well, I don't know.

THE COMMISSIONER: It is averred that Effie Pierce is the child of Josie Pierce and Thomas Pierce, whose names do not appear upon the authenticated roll of 1880. Her name appears upon the roll of 1896. Final judgment as to the enrollment of the said Effie Pierce will be suspended, and her name will be placed upon a doubtful card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 17th day of October A. D. 1900.

Commissioner.

SUPPLEMENTAL TESTIMONY---D #471.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 4th, 1900.

Supplemental testimony in the matter of the application of Oma Gray for enrollment as a citizen of the Cherokee Nation:

JOHN B. GRAY, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What was the name of your wife's mother? A Joserphine Dawson.
Q You present a Certificate of Admission to Cherokee citizenship duly certified to, dated on the day of January 11, 1883, signed by the Cherokee Citizenship Committe, approved by D. W. Duncan, Clerk of the Commission, certifying th at one Joserphine Dawson among others was admitted to Cherokee Citizenship; is Joserphine Dawson the mother of your wife? A Yes, sir.
Q Why does not your wife's name appear in thés certificate? A I do not know why it does not.
Q What was the age of your wife when this Joserphine Dawson was admitted? A I guess she was three of four years old.
Q Are you her first husband? A Yes, sir.
Q How does your wife's name happen to be Joserphine Pierce if her name was Joserphine Dawson? A Joserphine Dawson married Pierce.
Q Joserphine Dawson married a man by the name of Pierce and Pierce was the father of your mxxxxxx x Yxxx, xxx. wife? A Yes, sir.
Q At the time your mxxxxxx x mxxxxxx wife was born, Joserphine Dawson's name was Joserphine Pierce? A Yes, sir.

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J. O. Rosson, being swern bxxxx, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony andproceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes there of.

J O Rosson

Subscribed and s worn to before me this 9th day of October, 1900.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 21st, 1902.

In the matter of the application of Oma Gray for the enrollment of herself and children Cecil and Velton Gray as citizens by blood of the Cherokee nation.

Supplemental to D-471.

Appearances:

A. D. McKennon for Applicants.
W. W. Hastings for Cherokee nation.

ALBERT H. DAWSON, being duly sworn, testified as follows:

Examination by Mr. McKennon.

Q. What is your name? A. Albert H. Dawson.
Q. Where do you reside? A. Afton, Indian Territory.
Q. Do you know Oma Gray? A/ Yes, sir.
Q. Is she related to you? A. Yes, sir; cousin.
Q. Where does she live? A. Afton.
Q. How long has she lived there? A. 16 or 18 years.
Q. Has she lived in the Cherokee nation continuously for that length of time? A. Yes, sir.
Q. And still resides there? A. Yes, sir.

Examination by Mr. Hastings.

Q. During that time she has never resided out? A. Well, she went to visit probably but not more than two or three weeks, at Missouri.
Q. She lives there now, you say? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 21st day of July, 1902.

Notary Public.

IN THE MATTER OF THE APPLICATION OF

Omal Gray et. al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

CHEROKEE.

Oma Gray et al

April 25, 1904. Cancelled and Nos. 1, 2 and 3 transferred to Cherokee 10775.

CO TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 324

Cher D 472

Cher D 472

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

D 4 M

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 29th, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN B. GRAY FOR THE ENROLLMENT OF HIMSELF AND HIS WIFE, AND HIS WIFE'S SISTER, A MINOR CHILD, AS CHEROKEE CITIZENS; AND ALSO FOR THE ENROLLMENT OF HIS OWN CHILD CECIL GRAY.

The said John B. Gray, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? John B. Gray.
Q How old are you? A Twenty-nine years old.
Q What is your postoffice address? A Afton.
Q What district do you live in? A Delaware District.
Q Are you a recognized citizen of the Cherokee Nation? A Only by intermarriage.
Q By intermarriage? A Yes, sir.
Q For whom do you apply? A For my wife and my wife's sister.
Q And yourself? A Yes, sir; and myself.
Q When were you married? A In 1898.
Q What is your wife's name? A Ona Gray.

THE COMMISSIONER: The applicant presents marriage license duly authenticated, and a marriage certificate certifying that he was married to one Ona Pierce on the 27th day of April, 1898.

Q Were you married by United States law at the same time? A Yes, sir.

THE COMMISSIONER: And he presents also marriage license and certificate certifying that he was married according to the law of the United States on the 8th day of April, 1898.

Q How old is your wife? A She is twenty-one years old.
Q What degree of Indian blood has she? A I don't know just what degree she has.
Q What is her father's name? A Tom Pierce.
Q Is he living? A No, sir.
Q What is her mother's name? A Josie.
Q Is she living? A No, sir.
Q How long have you lived in the Cherokee Nation? A I have lived in the Cherokee Nation a little over six years.
Q Were you ever married before? A No, sir.
Q Was your wife ever married before? A No, sir.
Q Have you been living continuously with your wife since you were married? A Yes, sir.
Q In the Cherokee Nation? A Yes, sir.
Q What are the names of your children? A Cecil Gray.
Q How old is Cecil? A He will be seven months old next month.

THE COMMISSIONER: The applicant presents satisfactory proof of birth of his child Cecil Gray, whose name does not appear upon the census roll, having been born since said roll was compiled.

Q Was your wife's name on the 1880 Roll. A No, sir; I don't think it is.
Q By what right does she claim citizenship? A Well, I have some papers here.

Q Let's see them. (Exhibiting papers) Her name does not appear on these. A She gets citizenship through that. Her mother's name is on there somewhere.

Q What is her mother's name? A Josie Pierce.
Q There is nobody's name on here but Dawson.
Q Well, my wife's mother was a Dawson.
Q What was the name of your wife's mother? A Josie.
Q Is she living? A No, sir; she is dead.
Q Well, sir, we can't enroll you until you have got some evidence. You have got no evidence here, if these are all the papers you have got.
(Applicant hands more papers to Commissioner)

Q Your wife's name is not on here at all. You say her mother's name was Dawson? A Yes, sir. Her name was Pierce on that one.

Q Her name is not on here. You will have to bring some other evidence. There is no Pierce here at all. You say her mother is dead? A Yes, sir; her mother has been dead about seven years.

Q Where do you live? A At Afton.

By Mr. Preston S. West, Representative of Cherokee Nation.

Q What relation is your wife to W. A. Dawson?
A You mean doctor Dawson?
Q No, he is not a doctor that I know of.
Q How old is your wife? A She is twenty one years old.

THE COMMISSIONER: The applicant presents certificate of his admission to Cherokee citizenship issued by the proper officers of the Commission, on the 11th day of January, 1883, duly certified to, signed by Thomas Tehee, president of the Commission, Clark Wolfe and W. P. Thompson, Commissioners, certifying that one Josephine Dawson was admitted to citizenship on the 11th day of January 1883. The applicant avers that his wife is the daughter of Josephine Dawson, but he believes that her name was Josephine Pierce. Said certificate of admission is dated 1883.

1896 Roll, page 515, No. 2379, Oma Pierce, Delaware District.

1896 Roll, page 448, No. 3365, Emma Pierce, Delaware District.

THE COMMISSIONER: The name of the applicant's wife appears upon the census roll of 1896. The name also appears upon the pay roll of 1894. The applicant presents satisfactory proof of marriage to said Oma Pierce according to the laws of the Cherokee Nation, said marriage being solemnized in the year 1898. He avers that his wife's mother was named Josie Pierce, and that she was admitted by that name in the year 1883, but presents no proof of admission. The only proof as to citizenship presented is the fact that his wife's mother, Josephine Dawson was admitted in the year 1883. He also presents satisfactory proof of birth of the child Cecil Gray. The testimony shows that the said John E. Gray was married to the said Oma Pierce, who claims to be a citizen by blood, in the year 1898, too late for intermarried whites to receive any rights and benefits as citizens of the Cherokee Nation under their laws. Consequently the application of John E. Grayfor the enrollment of himself will be rejected.

MR. PRESTON S. WEST: (Representative of the Cherokee Nation) The Nation desires to object to the enrollment of both the others on the ground that the name in the certificate of admission is not the name alleged by the applicant to be the name of his wife or of his wife's mother; and further if the name is that of his wife's mother the Nation objects to their enrollment for the reason it is alleged that the admission of the Dawsons to citizenship was fraudulently procured.

THE COMMISSIONER: There being no satisfactory proof as to the citizenship of the wife of the applicant, final judgment as to her application for enrollment will be suspended from the fact that her name does not appear upon any of the rolls, and from the further fact that the Cherokee Nation, by its representative, protests against the enrollment of Josephine Dawson, the alleged mother of the applicant's wife. Consequently the names of his wife Ona Gray and his child Cecil Gray will be placed upon a doubtful card.

THE APPLICANT: I desire to apply for this child.

THE COMMISSIONER: The applicant applies also for the enrollment of Effie Pierce, a minor child.

Q How old is Effie Pierce? A Seventeen years old.
Q What is her father's name? A Tom Pierce.
Q Is he living? A No, sir.
Q What is her mother's name? A Her mother's name is Josie. Her name was Kelley when she died.

1896 Roll, page 515, No. 2581, Effie Pierce, Delaware District.

Q Did Effie draw money in 1894? A She did in 1896.
Q I am asking you about 1894.
Q Well, I don.t know.

THE COMMISSIONER: IT is averred that Effie Pierce is the child of Josie Pierce and Thomas Pierce, whose names do not appear upon the authenticated roll of 1880. Her name appears upon the roll of 1896. Final judgment as to the enrollment of the said Effie Pierce will be suspended, and her name will be placed upon a doubtful card.

* * *

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 17th day of October A. D. 1900.

Commissioner.

D4721

DEPARTMENT OF [illegible]
COMMISSION [illegible] TRIBES.
FILED
OCT 8 [illegible]
ACTING CHAIRMAN.

SUPP[illegible]TAL T[illegible]IMONY---D #472.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA? I.T., OCTOBER 4th, 1900.

SUPPLEMENTAL testimony in the matter of the application of Effie Pierce for enrollment as a citizen of the Cherokee Nation:

Commissioner T. B. Needles:--John B. Gray being duly sworn avers that the said Effie Pierce is the sister of his wife, and that her mother was Joserphine Dawson. For her citizenship see testimony taken in "D" Card #471 of their original and supplementary.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a ture and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 9th day of October, 1900.

Commissioner.

COMMISSIO[illegible]
[illegible]
JUL 1902
ACTING CHAIRMAN

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 21st, 1902.

In the matter of the application of John B. Bray for the enrollment of Effie Pierce as a citizen by blood of the Cherokee nation.

Supplemental to D-472.

Appearances:

A. S. McKennon for Applicant.
W. W. Hastings for Cherokee Nation.

ALBERT H. DAWSON, being duly sworn, testified as follows:

Examination by Mr. McKennon.

Q. What is your name? A. Albert H. Dawson.
Q. Where do you reside? A. Afton, Indian Territory.
Q. Are you acquainted with Effie Pierce? A. Yes, sir.
Q. Is she related to you? A. Cousin.
Q. How long has she resided in the Cherokee nation? A. About 16 or 18 years.
Q. Was she a sister of William Pierce? A. Yes, sir.

Examination by Mr. Hastings.

Q. Has Effie Pierce lived continuously--I mean by that all the time--in the Cherokee nation since she came here 16 years ago, as you stated? A. She is out in Colorado now. She lived here continuously up to the time she went there.
Q. When did she go there? A. She went to Colorado I think in December; I think it was 1900.
Q. Two years ago this next December? A. It was right after the enrollment at Vinita.
Q. That was in September, 1900. A. She went in December, 1901. She went in December---
Q. 1900? A. 1900.
Q. Has she been out there since that time? A. Yes, sir.
Is she married? A. Yes, sir.
Q. Where did she marry? A. Married there in Colorado.
Q. When? A. I don't know what time she married? Shortly after she went; probably 3 or 4 months.
Q. She is out there now with her husband? A. Yes, sir.
Q. Up to December, 1900, she had not been out of the Cherokee nation for the past 16 years? A. No, sir; only probably on a visit. Something like that.

Examination by Mr. McKennon.

Q. Where was her home in the Cherokee nation? A. Afton.
Q. Did she leave any effects when she went away? A. I couldn't say.
Q. Did she not have an interest in a farm? A. She did have but I think she probably sold it after she went out there.
Q. She was there when her brother died? A. Yes, sir.
Q. Did she go with him or did she go out afterwards? A. She went out afterwards.

Examination by the Commission:

Q. What is her post office address now? A. I think it is Pueblo now.
Q. What is the name of her husband? A. Will Akins.

Examination by Mr. Hastings.

Q. He is a white man? A. Yes, sir.
Q. A citizen of Colorado? A. Yes, sir.
Q. A resident out there? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 21st day of July, 1902.

Notary Public.

D. 471

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on ....

....

by delivering a true copy thereof on the .... day of .... A. D. 190...

Given under my hand this .... day of .... A. D. 190...

....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the .... day of ...., 190 .

....
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ....

....

on the .... day of .... A. D. 190....

....

Subscribed and sworn to before me this ....

....
Notary Public.

NOTICE!

IN THE MATTER OF the application of Effie Pierce.

for enrollment as Cherokee citizens:

Case No. D 472

To Effie Pierce afim D.S.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on March, 17, 1902 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-472.

Muskogee, Indian Territory, May 19, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Effie Akin et al., as citizens by blood of the Cherokee Nation, you are advised that the Commission is in receipt of Departmental letter of April 13, 1904, remanding the Commission's decision of December 23, 1902, as to Effie Akin, and directing that further testimony be taken upon the question of her residence.

Said Effie Akin has, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Friday, June 17, 1904, and introduce testimony as above indicated.

The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Cherokee D-472.

Muskogee, Indian Territory, July 12, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Effie Akin and her minor child, Velva May Akin, as citizens by blood of the Cherokee Nation, you are advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, granting the application for the enrollment of the said Effie Akin and her minor child, was approved by the Secretary of the Interior on June 26, 1905.

Respectfully,

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Effie Pierce

FOR ENROLLMENT AS

CHEROKEE CITIZENS

Denied

Josephine [illegible]

See Jacket Nos 8471
and R197

CHEROKEE. D 472

Effie ~~Pierce~~ Atkins et a

CC ESTIMONY FILED
WIT CHEROKEE NATION.

JUL 12 1905 Cancelled and transferred to Cherokee 10926.

See D 394

Cher D 473

Cher D 473

D473

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
1900
CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 29th, 1900.

IN THE MATTER OF THE APPLICATION OF James W. Baker for the enrollment of his wife and child as citizens of the Cherokee Nation, and he being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A James W. Baker.
Q What is your age? A Twenty three.
Q What is your Postoffice? A Fairland.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A My wife and one child.
Q Yourself? A No sir.
Q Just your wife and one child? A Yes sir.
Q Is your wife a Cherokee by blood? A Yes sir.
Q How old is your wife? A Nineteen.
Q What is her present name? A Maud Baker.
Q What was her maiden name? A Maud Ladd.
Q What was her name when you married her? A Yes sir.
Q Have you a certificate of marriage? A No sir.
Q When did you marry her? A November, 1898.
Q What is the name of her father? A J. B. Ladd.
Q Dead or living? A Living.
Q Her mother's name? A Mary Jane Ladd/
Q Dead or living? A Living.
Q Is her mother a Cherokee or white woman? A Cherokee.
Q Give me the name of the child? A Goldie M. Baker.
Q How old is that child? A Four months old.
(1896 Roll, Page 496, #1865, Rose E. M. Ladd, Delaware D'st)
Q Your wifes father came to the Cherokee Nation about 1875, did he not, and married her mother? A Yes sir.
Q Married her here and took her to Kentucky? A He married her in Kentucky I think.
Q He went back before 1880, did he? A Yes sir; 1877 I think.
Q So neither he, nor his wife are on the roll of 1880? A No sir.
Q And they came back in the Fall of 1880, did they? A Yes sir.
Q And have lived here ever since? A Yes sir.
Q And are on the roll of 1896? A Yes sir.
Q Was your wife born after they came back? A Yes sir; in the Spring after they came back in the Fall of 1880.
Q In the Spring of 1881? A Yes sir.
Q Who here knew your wife? A My father in law is here.

Joseph B. Ladd, being called, sworn and examined by Commissioner, C. R. Breckinridge, testifieds as follows:
Q Give your name? A Joseph B. Ladd.
Q Your age? A Fifty.
Q Your Postoffice? A Grove.
Q Do you know James W. Baker here? A Yes sir.
Q His wife is your daughter? A Yes sir.
Q She was Maud Ladd? A Yes sir.
Q She is married to him? A Yes sir; supposed to be.
Q Married about two years ago? A Yes sir; They ran off and married; I suppose they are married.
Q They have been living like they were married, have they?
A Yes sir.

Applicant recalled;
The applicant applies for the enrollment of his wife and one child. His wife is identified on the roll of 1896, under her maiden name, and her marriage is established by the personal testimony of the applicant, and her father. For reasons set forth in the testimony, the applicant's wife will now be listed as a Cher-

[illegible] card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

A R Crowell

Subscribed and sworn to before
me this 22nd day of October, 1900.

COMMISSIONER.

IN THE MATTER OF THE APPLICATION OF

Maude Baker Et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

[illegible]

[illegible]

Maude Baker

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1V Original testimony Sep.29-1900

F. J. Memo. of application Sep 29-1900

F. Affidavit of birth - Goldie M Baker

Notice of final consideration, 2-27-1902

E Order closing testimony 3/31/02

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Decision [illegible] red

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Cher D 474

Cher D 474

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES
VINITA, I.T., SEPTEMBER 29th, 1900.

IN THE MATTER OF THE APPLICATION OF Henry Jenkins, wife and two children for enrollment as citizens of the Cherokee Nation, and he being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Henry Jenkins.
Q What is your age? A I am twenty nine years old.
Q What is your Postoffice? A Vinita
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll; yourself?
Q Myself, wife and two children.
Q Do you apply for yourself as a Cherokee by blood? A yes sir.
Q Is your wife a Cherokee by blood? A No sir, she is a white woman.
Q How long have you lived in the Cherokee nation? A All my life.
Q What is your fathersname? A Elias Jenkins.
Q Deador living? A He is living.
Q Your mother's name? A Armenda Jenkins.
Q Dead or living? A She is dead.
Q How long has she been dead? A She died when I was small; I do nit recollect.
Q Now, give me your wifes name? A Dalia Jenkins.
Q How old is she? A She is twenty five.
Q When were you married to her? A Married in 1893.
Q Have you a certificate of marriage? A Yes sir.
The applicant presents an illuminated certificate, showing that he was married to his wife, Dalia Ormes, at Pheasant Hill, Indian Territory - Cherokee Nation - on the 31st day of May, 1893, the Reverend A. M. Chamberlain, officiating. This is returned to the applicant.
Q Have you and your wife lived together ever since you were married? A Yes sir.
Q And lived in the Cherokee nation? A yes sir.
Q Give me the names of your children? A Maudy May.
Q How old is that child? A She was born in 1894.
Q Next child? A Ollie Arminda.
Q How old is she? A She was born in 1896.
Q Both living now, are they? A Yes sir.
Q You were here in 1880, were you not? A Yes sir.
Q Why were you not enrolled in 1880? A I do not know.
Q Have you been here all the time? A yes sir.
Q Never been out of the Cherokee nation? A No sir.
(1896 Roll, Page 188, #2555, Henry Jinkins, Cooweescoowee D'st)
(1896 Roll, Page 311, #561, Dalia Jenkins, Cooweescoowee D'st)
(1896 Roll, Page 188, #2556, Maud M. Jinkins, Cooweescoowee D'st
(1896 Roll, Page 188, #2557, Ollie Jinkins, Cooweescoowee D'st)
Q Your mother died when you were very small? A Yes sir.
Q Before you can recollect? A I just can recollect her.
Q Who knew you back there when you were a child? A Mr. Daniels, I guess.
Q Where is your father now? A He lived out here in the country.

Beecher Chamberlain, being called, sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:
Q What is your name? A Beecher Chamberlain.
Q What is your age? A Fifty.
Q What is your Postoffice? A Centralia.
Q How long have you lived in the Cherokee nation?
A About fifty years.
Q Do you know Mr. Henry Jenkins there? A Yes sir.
Q How long have you known him? A I do not know just exactly how old he is; He has lived neighbors to me for the last twenty five years.

Q Twenty five years? A Yes sir; his folks.
Q Has he been here living in the Cherokee Nation ever since you knew him; some twenty five years ago? A Yes sir.
Q Did you always look upon him as a native Cherokee? A Yes sir.
Q Why is he not on the roll of 1880? A I do not know.
Q You knew he has been living here about twenty five years?
A Yes sir., I supposed he was on there.
Q Did you ever know his mother? A Yes sir: She married Mr. Jenkins; she was a widow Schrimpsher.
Q She died before the roll of 1880? A Yes sir; I guess she did.
Q Was she a duly recognized Cherokee? A I guess so.
Applicant recalled, states:
"She was an England when she came here with the Cherokees in 1838.
Q Has your father ever taken you out of the Cherokee Nation?
A No sir.

The applicant applies for the enrollment of himself, his wife and two children: He is identified on the roll of 1896, as a native Cherokee: He is not identified on the roll of 1880, nor can any member of his family be identified on that roll: He states that he was born in the Cherokee Nation, and has lived there all his life: Additional testimony identified him as having been in the Cherokee Nation for the last twenty five years. He will be listed now on a Doubtful Card, as a native Cherokee, for further consideration.
He is shown to have married his wife, Delia, in 1893, in accordance with Cherokee law: They have continued to live together, and she will be listed now upon a Doubtful Card, as a Cherokee by adoption.
The two children named in the testimony are identified on the roll of 1896; and they also will be listed for enrollment upon a Doubtful Card, as Cherokees by blood.

By Cherokee Representative; Joel L. Baugh:
"Attention is called to the Secretary of the Interior's ruling, dated March 17th, 1899, to the Commission to the Five Civilized Tribes".

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Cravens

Subscribed and sworn to before
me this 2nd day of October, 1900.

T. B. Needles

COMMISSIONER.

D474

DEPARTMENT [illegible]
COMMISSION TO THE FIVE [illegible]
FILED
OCT 8 1900

[illegible]

SUPPLEMENTARY-TESTIMONY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., OCTOBER 3rd, 1900.

IN THE MATTER OF THE APPLICATION OF Henry Jenkins for enrollment as a citizen of the Cherokee Nation - Card "D" 474 -
Sabra E. Kelley, being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Sabra E. Kelley.
Q What is your age? A Sixty four.
Q What is your Postoffice? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Do you want to give some additional testimony now? A Yes sir; about my nephew here.
Q What is his name? A Jenry Kenkins.
Q Was he born in the Cherokee nation? A yes sir.
Q Has he lived here all his life? A Yes sir.
Q You know that of your own personal knowledge? A Yes sir., I suppose he never was a month at a time in his life.
Q How long have you lived in the Cherokee Nation? A Ever since the Cherokees came here; I came the time of the emigration.
Q How old is your nephew? A He is about twenty eight or nine ; I do not know exactly his age.
Q You do not know of any good reason why he should not be on the roll of 1880? A No sir; he is considered to be a very good boy.
Q You know he was here? A Yes sir.
Q What is his mother's name? A Araminta England; her maiden name was.
Q She died before 1880 ? A She died in 1879.
Q Was his mother born a Cherokee? A Yes sir.
Q Was she your daughter? A She was my sister.
Q How old was she when she died? A I do not know.
Q Did she come here with the Cherokees when you did? A Yes sir; Came with the Emigration.

By Mr. J. L. Baugh, Cherokee Represenative:
Q Did this boys father have any child older than this boy; a white child? A Yes sir; two.
Q What are their names? A John and Dave.
Q About how old were they in 1880? A I suppose about twenty some odd years old; I do not know.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me this 8th day of October, 1900.

COMMISSIONER.

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SEP 4 1901

To be filed in the case of Henry Jenkins, CHEROKEE D-474.

Cherokees by blood.
SUPPLEMENTAL, Rejected card #193.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T., May 31, 1901.

In the matter of the application of Elias H. Jenkins for the enrollment of himself as a Cherokee citizen by intermarriage; being sworn and examined by Commissioner Breckinridge, he testified as follows:

APPEARANCES:
Com'r: Wade S. Stanfield, having duly qualified as attorney before the Commission, appears as attorney for the applicant.
W.W.Hastings, attorney for the Cherokee Nation.

Q Give me your full name? A Elias Jenkins.
Q How old are you? A 64.
Q What is your post-office address? A Vinita.
Q You made application before the Commission in September last did you? A Yes sir.
Q You applied as an intermarried Cherokee, I believe? A Yes sir.
Q Have you at this time your evidence of marriage, have you with you your Cherokee license and certificate? A Yes sir.
Q Give me the name of the wife through whom you claim? A Armindy Jane Schrimsher.
Q When was it you and she married? A Its on the license there.
Q Do you remember when it took place? A No sir, not exactly.

(Note: Mr. Simon R. Walkingstick, official interpreter, for the Dawes Commission, being called, says Cherokee license shows they were married in July, 28th, 1867.)

Q Who was it performed this ceremony for you? A Eli Butler.
Q Was he a minister? A Yes sir, and a judge too.
Q Have you a middle name? A Elias H.

Com'r: The applicant files a license issued the 28th of April, 1867, by the Clerk of Delaware District, authorizing marriage between himself and his wife, as stated by him, and the certificate indorsed thereon in Cherokee is translated to the effect that they were married on same date as the license By Eli Butler, the Judge of the District, this is filed herewith

Q When did your wife die? A In '76.
Q Did you livr with her until she died? A Yes sir.
Q Were you ever married except to this wife? A Not since.
Q Were you married before you married her? A Yes sir.
Q How many times? A Onset.
Q Was your former wife dead when you married this wife? A Yes sir.
Q Was this wife Armindy J. Schrimsher, ever married before she married you? A Yes sir.
Q How many times? A Just once.
Q Was her former husband dead when she married you? A Yes sir, he was killed in the Civil War.
Q Now you state in your formed testimony that you had never married since this wife, Armindy died? A Yes sir.
Q How come it you are not upon any roll since that time? A I couldn't say, I have been a legal voter all the time.

Com'r: The applicant presents a permit, signed by the Clerk of Cooweescoowee District, on the 17th of December, 1890 authorizing him to employ one Mary J. Hunt; this is filed herewith. He likewise files a permit from the clerk of Cooweescoowee District, under date of July 3, 1893, authorizing him as a Cherokee citizen to employ the same person, Mary J. Hunt He likewise introduces a permit issued by the clerk of Cooweescoowee District, under date of June 3, 1893, authorizing him to employ Mary J. Hunt. These documents are filed herewith. The first permit contains sundry indorsements of renewal.

Elias H. Jenkins sup'l 2

Q Did you ever apply for admission or read ission or recognition in any way to the Cherokee Council or to the Cherokee court on citizenship? A No sir, I never did.
Q Did you apply to the Dawes Commission in 1896 for recognition or admission as a Cherokee citizen? A '96 ?
Q Yes? A No sir, I never knew I hadn't married according to law.
Q Did you apply for enrollment in 1880? A I understood Mr. Gunter put my name on the roll down at Tahlequah; he told me he did, when he come back.
Q When the census roll of 1896 was taken did you know that your name had not been put on the roll ø 1880? A No sir.
Q Did you apply for enrollment when they were taking the census in 1896? A I was all the time at home.
Q I am asking you if you applied for enrollment when they were takin the census in 1896? A No sir, I didn't, because I supposed the officers would atten to their duty.
Q You made no application to be put on the roll? A No sir.
Q You did not go to the officers? A They come to my house.
Q Did theofficers come to your house in 1896? A Yes sir.
Have you lived in the Cherokee Nation ever since you married your Cherokee wife in '67? A Yes sir.
BY MR. HASTINGS, Cherokee Representative:
Q I believe you stated you have lived here all the time since '67? A Yes sir.
Q Never lived out of the Cherokee Nation? A Never a day, sir, only when ' would pass out and come in.
Q Where have you lived? A Right here on Cabin Creek all the time except two years.
Q How far from Vinita? A About seven miles is the farthest, I lived on Honey creek two years.
Q You have never married sine the death of your wife? A No sir.
Q I believe you say you had been married before you married her? A Yes sir, I have got boys and grand children.
BY COM'R BRECKINRIDGE:
Q Is there any brother or sister of your wife living? A Yes sir.
Q Who? A Mr. Kellay's wife.
Q Give me her name? A Her name i s Babra Kelly.
Q How long has she had the name of Kelly, more than 20 years? A No sir.
Q What was her name before it was Kely? A I can't callit just now, it was a Wyandotte Indian.
Q She had a Wyandotte name before? A Yes sir.
Q You don't remember whatit was? A I know it, I can't callit.
Q Did your wife have any other brother or sister living. A No sir, that's the only one living.
Q Is your wife's father or mother living? A No sir.
Q Have you any children by this wife? A Yes sir, two.
Q Give me their names? A Henry Jenkins and Ida Jenkins; she is Ida Harris now.
Q How long has she had the name of Harris? A Quite a little bit, I couldn't say, she has got five children.
Q She was a Jenkins in 1880? A Yes sir.
Q How old is Henry now? A He is about 25 I think.
Q How old is your daughter Ida? A She is 2 years younger than him.
Q About 23? A Yes sir.
Q Is your middle name Henry? A Houston, Elias Houston.
Q Yousay your son Henry is 25 now? A Yes sir.
Q And your daughter Ida is about 23 now? A 22.
Q Where is your son Henry now? A He lived there at Cabin. He had a little trouble and had to go and get his aunt.
Q How many children did you have by your first wife? A Two.
Q What were their names? A John and David.
Q John and David? A Yes sir, J.J.

Elias H. Jenkins sup'l.

Q Now your son John, is he dead? A No sir.
Q Your first wife was a white woman? A Yes sir.
Q And your son J.J? A He is a white boy.
Q Is he alive? A Yes sir.
Q Now you went to Tahlequah to get this enrollment straightened out, how did you get it straightened out in regard to J.J.?
A There was lots of them knowed the family you know.
Q But in what way did they straighten it? A They judt put Ida's name down I suppose instead of Johnnie's.
Q Did they change it, or did they give you a certificate, or what did they do? A I couldn't say, I didn't stay in to see what they done, they just give the testimony.
I believe Judge Keys was there.
Q How old is your son, John? A He was born in '50.
Q He is about 50 years old now? A Yes sir.
Q How old is your son, J.J.? A That's the one I am speaking about David was born in '61.
Q I understand you have got a son John and also a son J.J.?
A No sir.
Q What are your children by your first wife? A Boys.
Q Give me their names? A John J. Jenkins and David.
Q How old is your son, John J.? A He was born in '50.
Q How old is David? A Born in '61.
BY MR. HASTINGS:
Q Is Ida named Ida J.? A Ida Josephine, yes sir.
Q Did you apply for yourself when you went down to have your children enrolled in 1880? A Yes sir, and John Gunter told me he had my name put on.
Q He wasn't a member of the Senate in 1880? A No, but when Judge Clingan was sitting.
Q You meanin 1895? A Yes sir.
BY COM'R BRECKINRIDGE:
Q What is the name of the wife of your son, Henry? A Delia.
Q Was she ever married before she married your son? A No sir.
Q Was he ever married before he married her? A No sir.

1880 authenticated roll of citizensof the Cherokee Nation examined and applicant's son identified on
page 123, #1563 Henry Jenkins, Cooweescoowee Dist, native Cherokee;
1880 authenticated roll of citizens of the Cherokee Nation page 123 #1564 J.J.Jenkins, Cooweescoowee Dist, native Cher.

Com'r Breckinridge: In the present testimony of Elias H. Jenkins his marriage to his Cherokee wife in 1867 referred to in his originalcase, Cherokee R 193, is further supported by filing the Cherokee license and certificate relating thereto; it is further developed that he and his wife and her former husband was dead before they contracted marriage this Cherokee wife of the applicant died prior to the roll of 1880, and as he was not upon any roll taken since his marriage in 1867; and his first wife had not lived to be enrolled in 1880 his case was not considered at the time of his first application to be properly supported. It is developed nowin the testimony that two children are living of this marriage, namely, Ida J. Harris, the present name of his daughter, and Henry Jenkins, the name ofhis son, their cases being respectively, straight card 3283, of Ida J. Harris, said case being entitled John V. Harris, and others, and Cherokee Doubtful card # 474, of Henry Jenkins, who at the time of his application for himself and others was not identified on the roll of 1880; it is shown that the applicant has never married since the death of his Cherokee wife, and has continued to live in the Cherokee Nation; supported as his testimony now is, the former decision in his case is reversed, and he willbe listed for enrollment as a Cherokee by intermarriage, and it is directed that his rejected card, 195, be cancelled and a straight card be made out for him, and the testimony in his former application be transferred to the new jacket and filed along with this testimony. It is further directed that a copy of this testimony be filed in the case of Henry Jenkins, Cherokee doubtful card 474, and that attention be called thereto on his card, and that his enrollment in 1880 be noted on said card. This appears to make conclusive the right of Henry Jenkins and his family to enrollment; it is developed in this testimony that neither Henry Jenkins or his wife were ever previously married. It is further directed that a copy of this testimony be filed in the case of John W.Harris, and others, Cherokee straight card 3283; it is obvious from the testimony that the J.J.Jenkins identified on the roll of 1880 was intended as stated by the applicant, for Ida J., his daughter by his Cherokee wife. The only child by this name who could have been complicated with her enrollment at that time was a son of the applicant, John Jenkins, who is his son by his former wife, who was a white woman, and the applicant himself being a white man, that son of course has no claim whatever to enrollment, at least not through the family of the applicant and his Cherokee wife; and it is further evident that on the roll of 1880 the age of another son was erroneously applied to the name as therein enrolled of Henry Jenkins, this son also being a child by the applicant and his first wife, and wholly of white blood, and withouy shadow of claim through the applicant and his Cherokee wife.

----****----

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed)M.D.Green.

Subscribed and sworn to before me this July 17,1901.

(signed)T.B.Needles,
Commissioner.

-------******-------

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript

M D Green

Subscribed and sworn to before me this August 30th,1901.

Cher
Supp'l to D 474

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 14, 1902.

In the matter of the application of HENRY JENKINS, for the enrollment of himself and his children, Maud M. and Ollie A. Jenkins, as citizens by blood, and his wife Delia Jenkins, as a citizen by intermarriage, of the Cherokee Nation:

HENRY W. JENKINS, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Henry W. Jenkins.
Q What is your age Mr. Jenkins ? A I am 31 years old.
Q Your post office ? A Vinita.
Q Are you a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q What is your wife's name ? A Delia.
Q What is her age ? A She is twenty seven.
Q Is she an applicant for enrollment as a citizen by intermarriage?
A Yes sir.
Q When were you married to your wife Delia ? A I think it was in 1893.
Q Were you ever married before you married this wife ?
A No sir.
Q Was she ever married prior to her marriage to you ?
A No sir.
Q Have you and she lived together continuously since your marriage up to the present time ? A Yes sir.
Q Never been separated ? A No sir.
Q Were you and she living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q Have you and she lived together continuously since you were married up to the present time ? A Yes sir.
Q She has lived in the Cherokee Nation all the time since you were married ? A Yes sir.
Q How long have you lived in the Cherokee Nation ?
A All my life.
Q Are these two children, Maud M. and Ollie A., your children by your wife Delia ? A Yes sir.
Q Are they living at this time ? A Yes sir.
Q Have they lived in the Cherokee Nation all their lives ?
A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 13, 1902.

B C Jones
Notary Public.

"R"

Cherokee D 474

Department of the Interir,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 27,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Henry Jenkins for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 11,1902, that his case would be taken up by the Commission on the 27th day of February,1902, for final consideration. Receipt has been acknowledged of the Commission's letter and the applicant this day, to-wit? 27th day of Febryary,1902, appears in person.

HENRY JENKINS, being first duly sworn, and being examined testified as follows:

BY COMMISSION:

Q What is your name? A Henry Jenkins.
Q How old are you? A Thirty years old.
Q Whatis your post-office address? A Vinita.
Q Are you an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q Have you any evidence as to your marriage to your wife, Delia? A I have got a certificate here. (Produces papers.)

BY COMMISSION: There is offered in evidence a certificate of marriage showing that Henry W. Jenkins and Delia Ornes were united in matrimony by A.M.Chamberlain on the 31st day of May,1893; and same is filed herewith.

Q Is there any statement you desire to make relative to your enrollment and that of your wife and children? A No sir, none only what I have made.
Q Do you submit the case to the Commission for final consideration? A Yes sir.

BY COMMISSION: The applicant in his own behalf and in behalf of his wife and children, and the representative of the Cherokee nation submit this case to the Commission, and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28,1902.

Commissioner.

Cherokee D-474.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Henry, Maud M. and Ollie A. Jenkins, as citizens by blood, and for the enrollment of Delia Jenkins as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 29, 1900, Henry Jenkins appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor children, Maud M. and Ollie A. Jenkins, as citizens by blood, and for the enrollment of his wife, Delia Jenkins, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 3, 1900, at Chelsea, Indian Territory, on May 31, 1901, at Muskogee, Indian Territory, on February 27, 1902, and again on October 14, 1902.

The evidence shows that said Delia Jenkins was lawfully married on May 31, 1893, to one Henry Jenkins, a citizen by blood of the Cherokee Nation. As a result of that marriage, the minor children, applicants herein, were born.

The evidence further shows that Henry Jenkins is identified on the Cherokee Authenticated Roll of 1880, and on the Cherokee Census Roll of 1896. His wife and two minor children are identified on the Cherokee Census Roll of 1896.

The evidence further shows that Henry Jenkins has lived continuously in the Cherokee Nation all his life. His wife has resided therein and with him from the date of their marriage up to and including September 1, 1902. The minor children, applicants herein, have resided in the Cherokee Nation since birth.

It is the opinion of this Commission that Henry Jenkins, Maud M. Jenkins and Ollie A. Jenkins should be enrolled as citizens by blood, and that Delia Jenkins should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats.,495), and it is, therefore, so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this FEB -7 1903

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-474

Muskogee, Indian Territory, February 7, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, granting the application of Henry Jenkins for the enrollment of himself and his minor children, Maud M. and Ollie A. Jenkins, as citizens by blood, and for the enrollment of his wife, Delia Jenkins, as a citizen by intermarriage, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M325

2 [illegible]

IN THE MATTER OF THE APPLICATION OF

Henry J. Jenkins Et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

THE MATTER OF THE APPLICATION OF

Henry Jenkins et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

13 30 R

A Original testimony Sep. 29 1900
B Memo of application Sep 29 1900
C. Supplemental testimony Oct 3 19[illegible]
D. Sup. test from Elias Jenkins case

Notice of final consideration, 2-27-1902

Copy [illegible]

[illegible]

[illegible]

F Marriage cert
G Supplemental testimony and order closing testimony, Feb. 27, 1902

Cancelled and transferred to
Cherokee No. [illegible]
[illegible] 5283, 7623

Cher D 475

Cher D 475

D475

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 8 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 28, 1900.

In the matter of the application of WILBORN DAWSON for enrollment as a CHEROKEE BY BLOOD; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A Wilborn Dawson.
Q What is your age? A 34 years old.
Q What is your post office address? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood? A I don't know, I guess about 1/16.
Q Your name on the roll of 1880? A No, sir.
Q By what right do you claim citizenship? A (Exhibits paper.)
(The applicant presents a certificate issued from the office of the Commission on Citizenship, January 11, 1883, said certificate being signed by Thomas Teehee, President of the Commission, Alex Wolfe and T. F. Thompson, Commissioners, certified to by D. W. C. Duncan, Clerk of the Commission, under date of January 11, 1883, admitting among others to Cherokee citizenship one Wilborn Dawson.)
Q Are you the identical Wilborn Dawson mentioned in this certificate?
A Yes, sir.
Q For whom do you apply for enrollment? A Myself only.
Q How long have you lived in the Cherokee Nation? A Since 1886 I believe.
Q Been living here continuously since that time? A Yes, sir.
Q You were admitted in 1883? A Yes, sir.
Q You didn't remove to the Territory till 1886? A No, sir, I had been here, but I never came here permanently until 1886.
(On 1896 roll, page 463, No. 954, Welborn Dawson, Delaware district.)

The name of Wilborn Dawson appears upon the census roll of 1896, and he also presents a certificate of admission more particularly described in the testimony, certifying that he was admitted to citizenship on the 11th day of January, 1883. He avers that he did not remove to the Territory until 1886. And now comes the representatives of the Cherokee Nation and protest against the enrollment of the said Wilborn Dawson on the ground that his admittance was obtained by fraud. Consequently final judgment as to the enrollment of said Wilborn Dawson will be suspended and his name will be placed upon a doubtful card.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 2nd of October, 1900.

T B Needles

Commissioner.

CHEROKEE.

Wilbou Dawson

Cancelled and transferred
to Cherokee 10744

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See R 394

Cher D 476

Cher D 476

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 1st, 1900.

In the matter of the application of James H. Harmon for the enrollment of himself, wife and children as citizens of the Cherokee Nation; said Harmon beingsworn by Commissioner C.R. Breckinridge, testified as follows:

Q Give me your full name, please? A James H. Harmon.
Q How old are you? A 46.
Q What is your post office? A Vinita.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A MY wife and four children.
Q Yourself? A Yes, sir.
Q Do you apply as a Cherokee by blood? A No, sir.
Q White man? A Yes, sir.
Q Your wife is a Cherokee is she? A Yes, sir.
Q Have you your marriage license and certificate? A Yes, sir, I think I have.

The applicant presents a duly authenticated Cherokee license and certificate showing that he was licensed April 22, 1887 to marry miss Folra Jackson. The license issued by the Clerk of Delaware district, and the cerremony was performed by the same official on April 24th, of the same year. This is filed here with.

Q Now, have you and your wife lived together and in the Cherokee Nation ever since you were married? A Yes, sir.
Q Your wife's present name is Flora Harmon? A Yes, sir.
Q How old is she? A She is 34.
Q Is she a native of the Cherokee Nation? A (No responce)
Q Was she born in the Cherokee Nation? A No, sir.
Q Where was she born? A In Texas or Tennessee one.
Q How long has she lived in the Cherokee Nation? A SHe has lived here, they got their rights in 1884.
Q Was she admitted in 1884? A Yes, sir.
Q Have you got a certificate of admission? A Her mother is on the roll/
Q She was admitted by the Cherokee Commission or Council, I suppose at Tahlequah? A Yes, sir.
Q Have you got a certificate showing that she was admitted? A Her mother was admitted she was a minor heir then.
Q Was not your wife named in the paper? Did't your wife's name appear in the same paper with her mother? A (No response.)
Q You have not got any certificate of admission? A No, sir.
Q Give me now the name of her father? A Green W. Jackson.
Q Was he Cherokee or white man? A He was a white man.
Q Is he dead or alive? A He is alive.
Q Now, her mother's name? A Ella Jackson.
Q Cherokee or white woman? A Cherokee
Q Is she dead or alive? A She is alive.
Q When did your wife come from Texas, alongin 1884? A Yes, sir.
Q And has she lived here ever since ? A Yes, sir, her Pa and Ma enrolled here since they come to the country.
Q Have you and your wife lived in Delaware district all the time?
A Yes, sir.
Q Now give me the names of the children, eplease? A First one is Lillie Ray Harmon.
Q How old is she A She is ten years old.
Q The next one? A Claud Harmon, seven years old.
Q The next child? A Dwight, five years old.
Q The next child? A It was born the seventh of last March.
Q William D., is the right name? A Yes, sir.
Q These children ar all living now, are they? A Yes, sir.

2445

James H. Harmon---2.

1896 enrollment; page 576, #262, James Harmon, Delaware.
1896 enrollment; page 478, #1373, Flora Harman, Delaware.
1896 enrollment; page 478, #1374, Lillie Ray Harman, Delaware.
1896 enrollment; page 478, #1375, Claude Harman, Delaware.
1896 enrollment; page 478, #1376, Dwight Harman, Delaware.

Com'r Breckinridge--The applicant applies for the enrollment of himself, his wife and four children. His wife is on the roll of 1896 as a native Cherokee. He claims that she was admitted in 1884, but is not able at this time to present a certificate of her admission. She was born in the State of Texas, was married to the applicant as shown by the license and certificate filed herewith in 1887 and has lived in the Cherokee Nation ever since she moved here in 1884. To await further proof of her adoption to Cherokee citizenship, the applicantion for her enrollment will, at present, be placed upon a doubtful card.

The applicant himself is identified with ~~kak~~ his wife on the roll of 1896. He is shown to have been married to his wife in accordance with Cherokee law as just set forth, and has lived with her ever since his marriage in 1887. His application will be placed upon a doubtful card to await evidence of the admission of his wife. Of their four children the first three are identified with their parents on the roll of 1896. The application for their enrollment will, at present, be placed upon a doubtful card ~~x~~ to await proof of their mother's citizenship, and when a proper certificate of birth is supplied to the Commission of the youngest child, William D. Harmon, he also will be placed upona doubtful card.

The mother and children will be classed as Cherokees by blood and the husband as a Cherokee by intermarriage.

---ooOOOooo---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Yribes, he correctly recorded the testimony and proceedings in yhis case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rossen

Subscribed and sworn to before me this third day of October, 1900.

C R Breckinridge

Commissioner.

D 476

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
DEC 8 1900
ACTING CHAIRMAN.

POOR ORIGINAL -
BEST AVAILABLE COPY

SUPPLEMENTAL: D 808 also D 476.

Tookie A. Jackson
&
James H. Dawson.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I. T., December 7, 1900.

In the matter of the application of Tookie A. Jackson for the enrollment of himself as a Cherokee by blood; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q Give me your full name? A Tookie A. Jackson.
Q Mr. Jackson you made application at Vinita on the 3rd of October for admission for yourself and family did you not? A Yes sir.
Q And your wife and two children were admitted at that time?
A Yes sir.
Q And you were put upon a doubtful card? A Yes sir.
Q You apply for yourself as a Cherokee by blood? A Yes sir.
Q Give me the name of your father? A Green W. Jackson.
Q Give me the name of your mother? A Ella Jackson.
Q What was her name before it was Jackson? A Ella Dawson.
Q Your mother's maiden name was Dawson? A Yes sir.
Q You claim that your mother was admitted to citizenship by the Cherokee Commission? A Cherokee Council.
Q Is your father alive? A Yes sir.
Q Is your mother alive? A Yes sir, my father enrolled at Vinita.
Com'r: The applicant calls attention to a certificate now filed in the case of Lizzie Jackson and others, D 830, signed by John E. Adair, Executive Clerk under the seal of his office, dated July 25 1898 to this effect:

"This certifies that the following named persons were admitted to citizenship in this nation by the proper authority on the 8th day of September 1884."

Among the names in said enumeration appears the name of Ella Dawson.
Q That was the name of your mother? A Yes sir.
Q She and your father were married at that time? A Yes sir.
Q But she was admitted under her maiden name? A Yes sir.
Q How old are you this time? A I am 28.
Q And you claim admission as a minor at the time your mother was admitted? A Yes sir.
Q When did you come to the Cherokee Nation? A In 1884.
Q Did you come with her? A Yes sir.
Q Have you lived here ever since? A Yes sir.
Com'r: This evidence will be filed as additional testimony in the case of Tookie A. Jackson, D 808.
Q You have a sister married to James H. Dawson? A Yes sir.
Q And your sister claims under your mother's admission two days ago? A Yes sir.
Q What is her name? A Flora Dawson.
Q How old is she now? A She is older than I am.
Q She was a minor at the time your mother was admitted? A Yes sir, I think so.
Q Did your sister come to the Cherokee Nation with you in 1884?
A Yes sir.
Com'r: Copies of this testimony will also be filed in the case of James H. Dawson, and others D 476.

---III---

M.D. GREEN, being first duly sworn, states that as a stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes in said case.

Subscribed and sworn to before me this December 8, 1900.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 9th, 1902.

In the matter of the application of James H. Harmon for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife, Flora Harmon, and his children, Lillie R., Claud, Dwight and William D. Harmon, as citizens by blood of the Cherokee Nation.

Supplemental to D-476.

JAMES H. HARMON, being duly sworn, testified as follows:
Examination by the Commission.

Q. Your full name is James H. Harmon? A. Yes, sir.
Q. How old are you? A. I am 46.
Q. What is your post office? A. Vinita.
Q. You are a white man, are you? bA. Yes, sir.
Q. You are an applicant to be enrolled as an intermarried Cherokee citizen, are you? A. Yes, sir.
Q. What is the name of your wife? A. Flora Jackson.
Q. Flora Jackson was her name before you married her? A. Yes, sir
Q. Is she your first wife? A. Yes, sir.
Q. Are you her first husband? A. Yes, sir.
Q. Neither you nor your wife ever married before? A. No, sir.
Q. Is she a Cherokee by blood? A. Yes, sir.
Q. How long has she lived in the Cherokee Nation? A. Since '83.
Q. Was she admitted in '83? A. Yes, sir.
Q. She came to the Cherokee Nation in '83? A. Yes, sir.
Q. When were you married to her? A. It was '86 or 7. They have got my marriage license.
Q. Have you and your wife been living in the Cherokee Nation ever since '86? A. Yes, sir.
Q. Never been separated? A. No, sir.
Q. Living together on the first of last September? x A. Yes, sir.
Q. How many children have you? A. Four.
Q. All living? A. Yes, sir.
Q. What is the second child's name? A. Claud Harmon.
Q. You wife is living atthis time, is she? A. Yes, sir. I have got four children living.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr.

Subscribed and sworn to before me this 20th day of November, 1902.

T. B. C. Jones
Notary Public.

D. 476

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on ....

....

by delivering a true copy thereof on the .... day of .... A. D. 190...

Given under my hand this .... day of .... A. D. 190...

....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the .... day of ...., 190...

....
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ....

....

on the .... day of .... A. D. 190...

....

Subscribed and sworn to before me this ....

....
Notary Public.

NOTICE!

IN THE MATTER OF the application of James H. Harmon et al for enrollment as Cherokee citizens:

Case No. D 476

To James H. Harmon et al Vinita I.T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on March, 17, 1902. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation.

CHEROKEE. D4

James H Harmon et al

I W

April 12, 1904. Nos 2 to 6 incl Transferred to Cherokee 10756.

OCT 1 6 1907 [illegible]

[illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See Cherokee [illegible]

Cher D 477

Trans. to Cher Fr D 1105

Cher D 477

K R203

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JAN [illegible] 1902
ACTING CHAIRMAN

R. 203.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., January 20, 1902.

In the matter of the application of John Deckman for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

On the 1st day of October, 1900, John Deckman appeared before the Commission and made application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, for the enrollment of his present wife, Amanda Deckman, and their child, Charles W. Deckman, and his two children, Tracy and Laura B. Deckman, by his former wife, Dickie or Elizabeth Deckman, nee King, as citizens by blood of the Cherokee Nation.

The applicant's former wife, Dickie or Elizabeth Deckman, nee King, is duly identified on the tribal roll of 1880 as a citizen by blood of the Cherokee Nation. The applicant made satisfactory proof of his marriage to her, and his two children, Tracy Deckman and Laura B. Deckman, by his said wife, Dickie or Elizabeth Deckman, nee King, have been listed for enrollment as citizens by blood of the Cherokee Nation. The two children were duly identified on the census roll of 1896, and satisfactory proof was made as to their residence.

It appears from the testimony in this case that the applicant averred that he was married in 1896 to his present wife, Amanda Deckman, nee Downing. This was subsequent to the death of his first wife. He made no proof as to his marriage to his wife, Amanda Deckman, whom he claimed is a citizen by blood. The applicant averred that his present wife's father was a Cherokee by blood and her mother a Cherokee freedman.

The said Amanda Deckman was identified on the tribal rolls as a Cherokee freedman. The applicant's child by his said wife Amanda Deckman was not identified on the tribal rolls, having been born since the last roll was compiled.

Final judgment as to the enrollment of the applicant as a citizen by intermarriage and his son, Charles W., as a citizen by blood of the Cherokee Nation, was suspended, and their names were placed upon Cherokee Roll Card Field No. D.477.

The applicant's wife, Amanda Deckman, having been identified on the tribal rolls of the freedmen, was listed for rejection as a citizen by blood, and her name was placed upon Cherokee Roll Card Field No. 203.

On the 15th day of May, 1901, Amanda Deckman appeared before the Commission and made application for the enrollment of herself and her child, Charles W. Deckman, as Cherokee freedmen. The said Amanda Deckman was identified on the Cherokee roll of 1880 and the census roll of 1896 as a freedman. She made satisfactory proof as to her residence and as to the birth of her child, Charles W., who is too young to be upon a tribal roll. Consequently she and the said child were listed for enrollment as Cherokee freedmen.

In view of the fact that the applicant's wife, Amanda Deckman, and her child were subsequently listed for enrollment as Cherokee freedmen, it is directed that the name of Amanda Deckman be stricken from Cherokee Roll card Field No. R. 203, and the name of her son, Charles W. Deckman, from Cherokee Roll Card Field No. D.477, and that their names be reported to the Commission as applicants for enrollment as Cherokee freedmen.

It is apparent that John Deckman can only derive his rights as a claimant by intermarriage through his present wife, and as she has [illegible] as a [illegible]. It is further [illegible] [illegible] [illegible] [illegible] be [illegible] as a [illegible] by [illegible].

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

[illegible]

IN THE MATTER OF THE APPLICATION OF

John Deckman et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

JAN 22 1902 All papers in this Case Transferred to Freedman D. 1105

Charles W. Deckman ordered enrolled on Straight Freedman Card No. 839 with his Mother who has been identified on the [illegible] roll.

1724

IN THE MATTER OF THE APPLICATION OF

John Dickerman et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

CANCELLED

A. Original [illegible] Oct 1 1900

B. Memo of application Oct 1 1900

C. Marriage [illegible] certificate

D. Affidavit of birth Hattie M. Dickerman

See Cherokee D 2814

See Cherokee [illegible] 1013

D477

IN THE MATTER OF THE APPLICATION OF

John Beekman et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original [illegible] Oct 1 1900
B. Memo of application Oct 1 1900
C. Marriage [illegible] certificate
D. Affidavit of birth - Charles M. Beekman

[illegible]

3814

CANCELLED

Cher D 475

Cher D 478

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., OCTOBER 2nd, 1900.

IN THE MATTER OF THE APPLICATION OF Beverly L. Lafon, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Beverly L. Lafon.

Q What is your age? A Forty one.

Q What is your Postoffice? A Bartlett.

Q In what district do you live? A Cooweescoowee.

Q Who is it you want to have put on the rolls? A Myself and family

Q Wife? A Yes sir.

Q How many children? A Eight.

Q Are you a Cherokee by blood? A No sir.

Q Your wife is a Cherokee, is she? A Yessir.

Q Have you your marriage license and certificate? A Yes sir.

The applicant presents a duly authenticated license, issued by the clerk of Cooweescoowee District, March 8th, 1887, authorizing marriage between James A. Smith and Miss Sarah Morris, the latter a citizen of the Cherokee Nation; and the certificate shows that they were united in marriage on the following day by the Reverend G. H. Goodwin: This is filed herewith.

The applicant further presents an official statement from the Clerk of Cooweescoowee District, given on the 28th of August, 1896, showing that the records of his office contain a statement from H. H. Trott, clerk of said District in 1896, to the effect that the name of James H. Smith, that appears in the marriage record of this case, should be Beverly LaFon, and that the name of James H. Smith is an assumed name, "as represented to me on this 23rd of September, 1890". This is filed herewith.

Q You only assumed the name of Smith temporarily? A Yes sir.

Q Have you and your wife lived together as husband and wife ever since you married her in 1887? A Yes sir.

Q And lived all the time in the Cherokee Nation? A Yes sir.

Q Your wifes present name then is Sarah LaFon? A Yes sir.

Q How old is she? A Thirty one.

Q Was she born in the Cherokee Nation? A Yes sir.

Q Has she lived here all her life? A Yes sir.

Q Give me the name of her father? A Oliver Morris.

Q Is he dead or living? A He is dead/

Q How long has he been dead; twenty years? A Yes sir; I think he has been dead longer than that.

Q Give me the name of her mother? A Mary Ann Morris.

Q Is she dead? A Yes sir.

Q How long has she been dead, as far as you can tell?

Q I think she died when my wife was about two years old.

Q Give me the names of your children? A Amos Frederick.

Q How old is that child? A Twelve years old.

Q Next child? A Claud.

Q Any middle name? A No sir.

Q How old is he? A Twelve years old.

Q Twins, are they? A Yes sir.

Q Next one? A Flossie May.

Q How old is she? A Nine years old.

Q Next child? A Essie E.

Q How old is she? A She is six years old.

Q The next child? A Mays.

Q How old is that child? A He is four.

Q Next child? A Clark.

Q How old is Clark? A He is two years old.

Q The next child? A Beverly.

Q How old is Beverly? A He is about one month and a half old. There are two of them; Beverly and Ambrose, twins.

Q These children are all living, now, are they? A Yes sir/

(1880 Roll, Page 138, [redacted], Sarah Maria, Cooweescoowee D'st)
(1896 Roll, Page 199, [redacted], Sarah LaFon, Cooweescoowee D'st)
(1896 Roll, Page 313, [redacted], R. F. LaFon, Cooweescoowee D'st)
(1896 Roll, Page 199, [redacted], Amos LaFon, Cooweescoowee D'st)
(1896 Roll, Page 199, [redacted], Claud LaFon, Cooweescoowee D'st)
(1896 Roll, Page 199, [redacted], Flossie LaFon, Cooweescoowee D'st)
(1896 Roll, Page 199, [redacted], Essie LaFon, Cooweescoowee D'st)
(1896 Roll, Page 2822, Mayes LaFon, Cooweescoowee D'st)

The applicant applies for the enrollment of himself, his wife and eight children.

His wife is identified on the rolls of 1880 and 1896, as a native Cherokee; she has lived in the Cherokee Nation all her life, and she will be listed now for enrollment as a Cherokee by blood.

Of the eight children named in the testimony, the first five are identified with their parents on the roll of 1896; they are living at this time, and they will be listed now for enrollment as Cherokees by blood.

When the Commission is supplied with proper certificates of the birth of the three younger children, Clark, Beverly and Ambrose, these children also will be listed for enrollment as Cherokees by blood.

As for the applicant himself, he is shown to have been married to his wife in accordance with Cherokee law, in 1887, but under a name that he had assumed at that time: He is identified on the roll of 1896, under the name he declares to be his right and proper name: He has lived with his wife, in the Cherokee Nation, ever since his marriage to her in 1887: For the further consideration of his rights of citizenship, arising from said marriage, his application for his own enrollment will at this time be placed upon a Doubtful Card; and the final decision, when rendered, will be communicated to him at his present address, and will be reported to the Secretary of the Interior for his approval.

The undersigned being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Cravens

Subscribed and sworn to before
me this 4th day of October, 1900.

COMMISSIONER.

D 478

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 8 1900
ACTING CHAIRMAN

Supplementary Testimony,
File with Card D-478.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 3, 1900.

In the case of Beverly L. Lafan, said Beverly L. Lafan being sworn by Commissioner Breckinridge, testified:

Q You want to give some additional testimony in your case? A Yes.

Q First you want to say something about your having been married under a different name? A I was in trouble in Texas- got in trouble there and was charged with murder, and I came up in this country and was advised by others to keep quiet and to go under an assumed name.

Q Then you went down there and stood your trial? A Yes, I went down there and gave myself up and was acquaited and made public my name. I came back here and went to Hardin Trott and told him I wanted my name changed back.

Q Did you have the Cherokee Council take any action in regard to your m name? A Yes, in '96 I went to the Council-- Clingon, the census taker, would not let me on, so I went to Joel M. Lahey, and got a certificate, that you have now, showing that it had been changed on the Clerk's books, and I went before the Council at Tahlequah when it was revising the rolls in '96 and they granted me my enrollment.

Q On this evidence of your having made a record of your xxxxx real name? A yes. There are witnesses here that I can prove I am this same man- also Mr. Gunter was one of the Committee and he remembers the circumstance. I thought you had it on your books so I could get evidence ready.

Q What were you doing yourself at Tahlequah-- was it to present evidence of you having your real name recorded in the district, and they admitted you on that evidence on the roll of '96? A Yes.

Q You did not go to the Cherokee Council and have a resolution passed and approved by the Chief of the Nation? A I can't say exactly.

Q That is the roll committee you are talking about? A Yes.

Q You stated the Council-- that is a different thing? A I understood the Council had acted on it.

By W. W. Hastings:

Q Under what name were you married? A A James A. Smith.

Q Are you the same person who was married as James A. Smith ? A Yes.

Q And your wife,s name is? A Her name when I married her was Sarah Morris.

Q And her present name is? A Sarah Lafan.

Q xxx And after you married her she took your name of Smith until after you made public your name? A yes.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 3rd day of October, 1900.

Commissioner.

Supl.-C.D.#478.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Beverly L. Lafon as a citizen of the Cherokee Nation: Introduced on part of applicant:

Appearances:
J. S. Davenport, Vinita, I.T., Attorney for Applicant;
W. W. Hastings, Cherokee Representative.

Commission of Mr. Davenport: Any statement you desire to offer in this case?

Mr. Davenport: I want to offer a certified copy of an indictment and entry made showing in what name he was tried in Texas.

H. W. HOLLAND, being duly sworn, testified as follows on behalf of applicant:
MR. DAVENPORT:

Q What is your name? A H. W. Holland.
Q Where do you live? A I live near Coffeyville.
Q Do you know Beverly L. Lafon? A Yes, sir
Q How long have you known him? A I have known him ever since 1882.
Q Do you know when he was married? A Yes, sir
Q Do you know to whom he was married? A Yes, sir.
Q To whom was he married? A Sarah Morris.
Q When you got acquainted with him did you first get acquainted with him as Beverly Lafon? A Yes, sir.
Q Did he go by that name? A No, sir; not all the time.
Q What name did he go by other than Lafon? A J. A. Smith.
Q How long did he go by that name until he went back by his original name? A He went by that name from the time I got acquainted with him until about 1890, I think it was.
Q He goes by the name of Lafon now, doesn't he? A Yes, sir.
Q Well, about '90? did he change his name from Smith and go by the name of Lafon? A Yes, sir.
Q Do you know anything about the circumstances that caused him to go by his original name? A Yes, sir.
Q What was that? A Well, he got into trouble in Texas and came over there to my place near Kansas, I lived in the State of Kansas at that time and he came to my place and he went back to Texas, I think about the year of 1890 and had his trial there in the County.
Q Well, were you down there during the trial? A Yes, sir, I heard the trial.
Q And from that time on he went by the name you have known him?
A From that time on he went by the name of Lafon.
Q Well, you knew his name was Lafon but he hadn't gone by it?
A I know that his name was Lafon but he didn't go by that name.

JORDAN MORRIS, being duly sworn, testified as follows on part of applicant:
MR. DAVENPORT:

Q What is your name? A Jordan Morris.
Q Are you any relation to Mrs. Lafon, or Sarah Morris? A Yes, sir.

Q What relation are you? A She is my half sister.
Q Do you know Beverly Lafon? A Yes, sir.
Q How long have you known him? A I have known him I guess 15 or 16 years.
Q Did you know him before he and your half sister were married?
A Yes, sir.
Q You knew him by what name then? A Smith.
Q When did he begin to go by his regular name?
A It was quite a while after they married.
Q Well, about when do you remember, what year it was? A No, I don't remember just exactly what year it was.
Q Well, about how long ago has it been? A That he has been going by the name of Lafon?
Q Yes. A After he come back from Texas, after he had been married four or five years.
Q He went down there as you understood and had a trial?
A Yes,
Q And after he came back there went by his right name?
A Yes, sir.

Commission: Attorney for the applicant andxxxxxx attorney for the Cherokee Nation present submit this case to the Commission for final consideration. It is ordered closed and reported to the Commission for final decision based upon the testimony now on file.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceeings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Cherokee D 476

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Beverly L. Lafon for enrollment as a citizen by intermarriage of the Cherokee Nation.

DECISION.

oooOooo

The record in this case shows that on October 2, 1900, Beverly L. Lafon appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife Sarah Lafon, and his minor children Amos Frederick, Claud, Flossie May, Elsie E., Maye, Clark, Beverly, and Ambrose Lafon as citizens by blood of the Cherokee Nation.

Upon the evidence then submitted Sarah Lafon and the above named children were listed on Cherokee roll card, Field No. 3935. On October 3, 1900, further evidence was submitted in this case. On February 24, 1902, the applicant by his attorney, appeared before the Commission at its offices in Muskogee, Indian Territory, and further proceedings were then and there had in the matter of this application.

The evidence shows that Beverly L. Lafon under the assumed name of James A. Smith, was lawfully married in accordance with the tribal laws of the Cherokee Nation on March 6, 1887, to Sarah Morris, a citizen by blood of the Cherokee Nation, who is duly identified on the authenticated tribal roll of 1880. The applicant is properly identified as the party named in the marriage license and certificate. He is identified on the Cherokee Census roll of 1896.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898, (30 Stats., 495).

It is therefore the opinion of the Commission that Beverly

L. Lafon is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee tribe of Indians in Indian Territory, and his application for enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this MAY 20 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Chero. D-478

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith, please find a copy of a decision of the Commission rendered May 20, 1902, in the matter of the application of Beverly L. Lafon for enrollment as a citizen of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above named person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Commissioner in Charge.

Enc. D-478.

IN THE MATTER OF THE APPLICATION OF

Beverly L. Lafon

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Oct. 2 - 1900 -
B Memo of application Oct. 2 - 1900
C. Supplemental testimony Oct 3 - 1900.
D. Marriage license and certificate.
E Certified copy of marriage record
F Notice of final consideration 9-28-1902
[illegible]

Decision

G Certified copy of [illegible] statement
H Supplemental testimony and order closing case, Feb. 24, 1902

See Cherokee Jacket 3935

Sept 13, 1907 Cancelled and transferred to Cherokee No. 9[illegible]87

Cher D 479

Cher D 479

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 3, 1900.

In the matter of the application of John S. Bogle for the enrollment of himself as a Cherokee by intermarriage and his wife and children as Cherokees by blood; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A John S. Bogle.
Q What is your age? A I am 34.
Q What is your post office address? A Vinita.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A No, sir, by adoption.
Q For whom do you apply for enrollment? A Myself and wife and minor children.
Q What is the name of your wife? A Nancy Jane Bogle.
Q What was her name before you married her? A Nancy J. Pierce.
Q How old is she? A She is 25.
Q Have you any certificate of marriage? A Yes, sir.

(The applicant presents a duly authenticated marriage license and marriage certificate certifying that he was married to one Miss Nancy J. Pierce, a Cherokee citizen, according to the laws of the Cherokee Nation, on the 5th of April, 1894.)

Q What is your wife's father's name? A Her father's name was Thomas Pierce.
Q He living? A No, sir.
Q What is her mother's name? A Josephine.
Q She living? A No, sir.
Q What are the names of your children? A My oldest is named James Ernest, 5 years old.
Q Your next child? A Edna Naomi, 4 years old.
Q The name of the next one? A John Henry, 3 years old.
Q The next one? A Marion Ray, 2 years old.
Q The next one? A The next one is Claud, born last February, 8 months old.
Q These children alive and living with you at this time? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A 18 years.
Q Was your wife ever married before? A No, sir.
Q Were you ever married before? A No, sir.
Q You are living with your wife now? A Yes, sir.
Q Have lived with her continuously since you married her? A Yes, sir.
Q Have you any proof of birth as to this youngest child; have you any certificate of her admission? A I have a certificate of her mother's admission, she was a child.
Q What was her mother's name? A Josephine Dawson.
Q How did her name happen to be Pierce? A She went by her father's name; her father and mother were married in the State of Arkansas and when she was admitted she hadn't been married under Cherokee law and she was admitted by her maiden name.
Q Was she born before her mother was admitted? A Yes, sir.
Q What was her mother's name? A Josephine Dawson.
Q She has been here and enrolled, has she? A Her mother is dead.

(The applicant presents a certificate of admission from the office of the Commission on Citizenship at Tahlequah, January 11, 1883, signed by Thomas Teehee, President of the Commission, Alex Wolf and T. F. Thompson, Commissioners, attested by D. W. C. Duncan, Clerk of the Commission, certifying that among others one Josephine Dawson was admitted to citizenship in the year 1883.)

Q You say now that Josephine Dawson, whose name is on the certificate of admission you present, is the mother of your wife, Nancy J. Pierce? A Yes, sir.
Q Was she married to Pierce before she married Dawson, or afterwards?

John S. Bogle - 2.

A She never married a Dawson, her name was Dawson, she was the daughter of Robert Dawson.

Q And afterwards she married a man named Pierce? A Pierce was her first husband.

Q When did she marry? A I don't know the exact date of her marriage, they were married previous to their admission.

Q But your wife was never admitted? A No, sir, my wife was never readmitted.

Q And your wife was born previous to the admission of your wife's mother? A Yes, sir.

Q How long have you been living in the Cherokee Nation? A 18 years.

Q How long has your wife been living here? A About 17 years.

Q Is she your first wife? A Yes, sir.

Q You her first husband? A I am.

(Nancy Jane Bogle on 1896 roll, page 440, No. 383, Delaware dist. John S. Bogle on 1896 roll, page 565, No. 28, John Sachem Bob e, Delaware district. James Ernest Bogle on 1896 roll, page 440, No. 384, Delaware district. Edna Naomi Bogle on 1896 roll, page 440, No. 385, Edna Neoma Boble, Delaware district.)

(The applicant presents proof of birth as to Claud Bogle, Marion R. Bogle, and John H. Bogle, his three children who were born since the roll of 1896 was compiled.)

The name of John S. Bogle and his wife, Nancy J. appear upon the census roll of 1896. The names of his children, James E., Edna N., are found upon the said roll, and he presents satisfactory proof of birth as to his three youngest children, John H., Marion R., and Claud, whose names do not appear upon the census roll of 1896. He avers and makes satisfactory proof of the marriage of his wife, Nancy J. Pierce in the year 1884. He also avers that the mother of his wife, one Josephine Dawson, was duly admitted to citizenship in the year 1883, the certificate of admission more particularly described in the testimony. He avers that his wife, Nancy J., was born before the admission of her mother, Josephine Pierce, who was admitted by her maiden name of Josephine Dawson. No certificate of admission is presented as to Nancy J. Pierce, the wife of the applicant, and no proof is made as to her citizenship, she having been born before the admission of her mother. Final judgment as to the application of the said John S. Bogle, his wife Nancy J., and his children as enumerated in the testimony is suspended, and their names will be placed upon a doubtful card because of the fact that her name does not appear in any certificate of admission, and that she was born before the admission of her mother, and the further fact, that the representatives of the Cherokee Nation protest against the enrollment of Josephine Dawson or any of her descendants, averring that their admission was secured by fraud. When the decision of the Commission is arrived it, he will be notified by mail. Meantime, he can present any further proof of citizenship he may desire.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 3rd [illegible], 1900

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 9 1900

SUPPLEMENTAL TESTIMONY----D Card #479,

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 4th, 1900.

SUPPLEMENTAL testimony in the matter of the application of John S. Bogle for enrollment as a citizen of the Cherokee Nation:

F. M. DAWSON, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A F. M. Dawson.
Q What is your age? A 58.
Q What is your post office? A Oceoma.
Q Do you know Nancy J. Bogle? A Yes, sir.
Q What was her name? A Josie Dawson she was Josie Pierce, but afterwards married a man by the name of Dawson.
Q She was a daughter of Joserphine Dawson? A Yes, sir.
Q Then Joserphine Dawson married a man by the name of Pierce? A Yes, sir.
Q And by that marriage she had a child named Nancy J? A Yes, sir.
Q And that woman is John S. Bogle's wife? A Yes, sir.
Q You knew this to be a fact? A Yes, sir.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J.O.Rosson

Subscribed andsworn to before me this 9thday of October, 1900.

Commissioner.

Cherokee D-472.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 9, 1902.

In the matter of the application of John S. Bogle for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Nancy J., and children, James E., Edna N., John H., Marvin R. and Claud Bogle, as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A John S. Bogle.
Q What is your age? A Thirty-six.
Q What is your postoffice address? A Chaffee, Indian Territory.
Q You are the identical John S. Bogle who applied to this Commission in October, 1900, for enrollment as a citizen by intermarriage? A Yes sir.
Q You at that time made application for your wife, Nancy J.? A Yes sir.
Q Is she living at this time? A Yes sir.
Q You also applied for your children, James E., Edna N., John H., Marvin R. and Claud? A Yes sir.
Q Are those children living? A Yes sir.
Q When were you married? A I was married in '94, April 5th.
Q Have you filed with the Commission evidence of your marriage under Cherokee law? A I have.
Q How long have you been a resident of the Cherokee Nation? A About fifteen years I think.
Q Continuously? A I think I have been in this country fifteen years the second day of this coming November.
Q Have you lived here always during the past fifteen years? A Yes sir.
Q Have you ever been out? A One time.
Q How long? A About four days.
Q How long did you know your wife before you married her? A About four or five years, something like that.
Q Has she lived with you here in the nation continuously since your marriage? A Yes sir.
Q Living here now? A Yes sir.
Q These children are living in the nation? A Yes sir.
Q Were you ever married before you married this wife? A No sir.
Q Was she ever married before? A No sir.
Q Have you ever separated since your marriage? A No sir.
Q Living together as husband and wife on the first day of September, 1902? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger Jr

Subscribed and sworn to before me this 6th day of November, 1902.

B. C. Jones
Notary Public.

John S Boyle et al

1W

April 25 1904. Nos 2 to 8 incl.
transferred to Cherokee 10776.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

OCT 16 1907 Cancelled and trans-
ferred to Cherokee C-1077

See D324

Cher D480 William W. Fields

Cher D480

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 2, 1900.

In the matter of the application of William W. Fields for the enrollment of himself, and children as Cherokees by blood, and his wife as a Cherokee by intermarriage, being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A William W. Fields.
Q What is your age? A 41.
Q What is your post office address? A Bluejacket.
Q What district do you life in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir, a Cherokee.
Q What degree of blood? A 1/8.
Q For whom do you apply for enrollment? A Me and my family.
Q What is the name of your father? A George.
Q He living? A Yes, sir.
Q The name of your mother? A Mary,
Q She living? A No, sir.
Q What is the name of your wife? A Sarah A.
Q She a citizen by blood? A No, sir.
Q What was her name before you married her? A Hedley.
Q What is her age? A She is 35 I believe.
Q Have you a certificate of marriage? A Here it is.
(Applicant presents satisfactory certificate of marriage, certifying that he married one Sarah A. Hedley, a citizen of the United States, on the 26th of September, 1891.)
Q Have you any children? A Yes, sir.
Q What are the names of your children? A Jesse, 18 years old.
Q The next one? A Birdie, 10 years old.
Q The next one? A Dora, 8 years old.
Q What is the next one? A Della, 7 years old.
Q Next one? A Eugene, 5 years old.
Q Next one? A Howard E., 3 years old.
Q The next one? A Gledah, 8 months old.
Q Any others? A I have two more that isn't on this list with my children enrolled here, you will find them on the 1896 roll.
Q Are they your children? A Yes, sir.
Q What are their names? A Louella, 17 years old.
Q The next one? A Edward, 9 years old.
Q These children all alive and living with you? A They are all living with me except Eddie and Louella.
Q They living in the Cherokee Nation? A Yes, sir.
Q What are the names of the mothers of these children, Sarah A.?
Q All these here is Sarah; the first mother of the children was Nellie Fitzgerald, I have been married twice.
A She living? A Yes, sir.
Q She a white person? A Yes, sir.
Q Have you any certificate of marriage as to her? A No, sir, I never brought it, I have one at home.
Q You and Nellie are not living together? A No, sir.
Q When did you marry her.
(The applicant presents a marriage certificate certifying that he was married to one Miss Nellie Fitzgerald, a non citizen, of the United States, in the state of Missouri, according to the laws of the United States, on the 5th day of October, 1879, and he swears that the said Nellie Fitzgerald is the mother of his children, Edward, Louella and Jesse.)
Q You say that Jesse Fields now, and Louella Fields and Edward Fields are the children of your former wife, Nellie Fitzgerald?
A Yes, sir.
Q And you married Sarah A. Hedley in 1891? A Yes, sir.
Q Who was the mother of Dora? A Sarah A. Hedley.

Q Who was the mother of Della? A Sarah A. Hedley.
Q Eugene? A Sarah A. Hedley.
Q Howard E.? A Sarah A. Hedley.
Gledah? A Sarah A. Hedley.
Q You say that your former wife is the mother of Edward? A Yes, sir.
Q And Edward is nine years old? A Yes, sir.
Q How could that be when you have got children nine years old and over by your present wife; were you divorced from your first wife?
A Yes, sir.
Q When?

(Applicant presents a copy of the decree of divorce from the Delaware Circuit Court, Cherokee Nation, in the year 1891, in the case of W. W. Fields v. Nellie Fields, said decree of divorce being attested to by J. L. Ware, Deputy Clerk of Delaware district, under the seal, and signed by T. W. Bench, Circuit Judge of the Northern Judicial Circuit. This decree of divorce was granted in 1891, on the 9th of September.)

Q You haven't any certificate here as to the date of your marriage to your last wife? A It was the 13th of September.
Q This certificate just says 1891? A That is a mistake in the writing of the license, he was here a few minutes ago, Mr. T. J. McGee.
Q Four days after you got a divorce you married your second wife?
A Yes, sir.
Q When was Edward Fields born? A I don't just remember the date exactly, I think it was February 22, 1891.
Q His mother was Nellie Fitzgerald? A Yes, sir.
Q When was Jesse Fields born? A February 20, 1888.
Q His mother was Hedley? A No, sir, his mother was Nellie Fitzgerald.
Q When was Birdie born? A She was born December 12, 1890.
Q When was Dora born? A February 28, 1892.
Q Were these children all born in wedlock? A All but one.
Q Which one was that? A Birdie.
Q Birdie was born before you were divorced from your first wife?
A Yes, sir.
Q Your first wife is the mother of Birdie? A No, sir, my second wife.
Q Then Dora, Della, Eugene, Howard E., and Gledah were all born after you married your last wife? A Yes, sir.
Q And Louella was the daughter of your first wife? A Yes, sir, and Edward. You will not find me on the 1880 roll.
Q By what right do you claim citizenship? A Because I was always a citizen, I lived here all my life.
Q Why doesn't your name appear on the 1880 roll? A I was missed.
Q Were you ever readmitted? A I was never outside the Territory.
Q Never been admitted by an act of the Cherokee Council? A No, sir
Q Did you ever apply to the Dawes Commission for admission in 1896? A No, sir, I was placed on the roll of 1896.
Q On the Indian roll of 1896, but did you ever apply to the Dawes Commission in 1896 for admission? A No, sir.
Q What was your father's name? A George.
Q Did he die before 1880? A No, sir, he is living to-day.
Q Is he here? A I don't know whether he is here or not.
Q What was your mother's name? A Mary.
Q She living? A No, sir, she is dead, she has been dead for years
Q You were 21 years old in 1880? A Yes, sir.
Q And still your name isn't on the roll of 1880? A No, sir.
Q Where were you living? A I was moving, moved from Delaware district to Cooweescoowee, and when I got to Cooweescoowee district why the census takers had come and gone.
Q Haven't you known for years that your name wasn't on the roll of 1880? A Yes, sir.

(William W. Fields on 1896 roll, page 488, No. 1085, William Webster

Fields, Delaware district.)

Q Your mother's name does not appear on the roll of 1880? A No, sir, she has been dead for years.

Q Was she dead before 1880? A Yes, sir, she died when I was quite small.

Q Is your present wife's middle name Ann? A Yes, sir.

(Sarah A. Fields on 1896 roll, page 573, No. 169, Annie Fields, Delaware district. Jesse Fields on 1896 roll, page 468, No. 1066, Delaware district. Birdie Fields on 1896 roll, page 468, No. 1067, Bird Fields, Delaware district. Dora Fields on 1896 roll, page 468, No. 1068, Delaware district. Della Fields on 1896 roll, page 468, No. 1069, Delaware district. Eugene Fields on 1896 roll, page 468, No. 1070, Delaware district. Louella Fields on 1896 roll, page 469, No. 1106, Lue Fields, Delaware district. Edward Fields on 1896 roll, page 469, No. 1107, Eddie Fields, Delaware district.)

Q Your former wife isn't on the roll of 1896, you got this divorce in 1891? A No, sir.

Q Have you got any proof of birth as to your youngest two children?

(Applicant presents proof of birth as to Howard E. and Gledah Fields.)

Q Have you got any proof now to offer as to your citizenship?

A My uncle is here, Bud Fields.

Q Well, you have got to prove that you are entitled to citizenship, you have got ~~xx~~ to prove that your mother was a Cherokee citizen by blood, and that she was married to your father, or if she wasn't a Cherokee citizen, that she was married to your father.

M. Daniels, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A M. Daniels.

Q What is your age? A 58.

Q What is your post office address? A Vinita.

Q Do you know William W. Fields? A Yes, sir.

Q Did you know his mother, Mary? A I don't remember whether I do or not; yes, sir, I was acquainted with her.

Q Was she a Cherokee citizen by blood? A Yes, sir, she was recognized as a Cherokee by blood, her mother was a Cherokee.

Q Do you know when she died? A No, sir, I don't know when she died, I haven't been living near him, I only meet him occasionally.

Q His mother, Mary, then you know to be a Cherokee by blood?

A Yes, sir.

Q What degree of blood? A I guess she was about 1/4, I don't know.

Q Her father you say was a white man? A Yes, sir.

Q Was Mary's mother an indian? A Yes, sir, she was an indian, Cherokee.

The name of William W. Fields appears upon the census roll of 1896. He makes proof of his marriage to one Sarah A. Hedley, in the year 1891, and proof of the same is filed herewith. The name of his children, Jesse, Birdie, Dora, Della, and Eugene are found upon the census roll of 1896; also the names of his children, Louella and Eddie. He makes satisfactory proof as to the birth of his two younger children, Howard E. and Gledah. He avers that his child, Birdie, was born to him before his marriage with his present wife, who is a non citizen. He avers that he was married to one Nellie Fitzgerald in the year 1879, according to the laws of the State of Missouri, she being a non citizen. He makes proof of his divorce from said wife, said divorce having been granted on the 9th of September, 1891, and avers that he married his present wife on the 13th day of September, 1891. The certificate of marriage which he presents isn't specific as to the date of the marriage of his second wife, it merely stating that they were married in the month of September, but he avers it was on the 13th of September, four days after the divorce granted from his first wife. He makes no positive [illegible] his name does not appear [illegible] the name of his [illegible] said rolls were compiled. house. He [illegible] of his child, Birdie, will

The application for the enrollment [illegible] born out of wedlock. be rejected for the reason [illegible] of himself

Judgment as to the application for the enrollment [illegible], with the ex- and his wife, Sarah A., and his children [illegible] and their names will ception of his child Birdie, will be suspended, be placed upon a doubtful card, awaiting positive proof as to the citizenship of the said applicant. His wife's name will be entered upon said card as a Cherokee citizen by intermarriage and the name of himself and his children as Cherokee citizens by blood.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 3rd of October, 1900.

Commissioner.

D. 480

DEPARTMENT OF
COMMISSION TO THE FI
FILED
OCT 22 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 3rd, 1900.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS IN THE MATTER OF THE APPLICATION OF WILLIAM T. FIELDS FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN.

GEORGE FIELDS, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A George Fields.
Q What is your age? A About sixty-two.
Q What is your postoffice? A Southwest City.
Q Do you know William Fields? A Yes, sir.
Q What is the name of William Fields father? A George Fields.
Q Are you his father? A Yes, sir.
Q What was his mother's name? A Mary Fields.
Q Was she a Cherokee by blood? A Yes, sir.
Q A citizen of the Cherokee Nation? A Yes, sir.
Q Where was William Fields born? A On Honey Creek.
Q Why is his name not on the 1880 roll? A Why he was moving at that time, and he was down on Honey Creek after a load while they was taking the census up there, and when he got back up into Cooweescoowee they was through, and he wrote to me to give his name down here but I never got the letter until it was too late.
Q He was born in the Cherokee Nation? A Yes, sir.
Q He has never lived outof it? A No, sir.
Q He was here in 1880 to your certain knowledge? A Yes, sir.
Q And you assert as a reason that he had moved from Delaware to Cooweescoowee District just about the time the census was being taken? A Yes, sir.
Q You know of your personal knowledge he has not lived out of the CherokeeNation? A Yes, sir.
Q You are his father, and your wife, who was a Cherokee by blood, is his mother?A Yes, sir.

Witness excused.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings at the Supplemental hearing of the above mentioned application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 19th day of October A. D. 1900.

Commissioner.

D480

MAR 5 1902

ACTING CHAIRMAN

D. 489.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of William W. Fields for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

Represented by J. R. Sequitchie, Chelsea, I. T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified February 18, 1902, that his application for the enrollment of himself, wife and children as citizens of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and the applicant this day, to wit the 28th day of February, 1902, appears in person and by his agent, J. R. Sequitchie.

COMMISSION: Is there any statement you desire to make relative to this application?

MR. SEQUITCHIE: No, sir, we have a certificate of marriage to his first wife, and a decree of divorce in the same case.

COMMISSION: There is offered in evidence a certificate from S. C. Sutter, Clerk and ex-officio Recorder of the County of McDonald, State of Missouri, certifying that Miss Nellie Fitzgerald and William Fields were united in matrimony by Thomas A. Marshall, Justice of the Peace, on the 5th day of October, 1879. There is also offered in evidence the original decree of divorce signed by C. W. Benge, Circuit Judge Northern Judicial Circuit, Cherokee Nation, showing that on the 9th day of September, 1891, a divorce was granted to W. W. Fields from his wife, Nellie Fields.

COMMISSION: Do you submit the case to the Commission for consideration?

MR. SEQUITCHIE: Yes, sir.

COMMISSION: The agent for the applicant and the representatives of the Cherokee Nation present submit the case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 1st day of March, 1902.

Commissioner.

Cher- D-430.

Four copies to be filed in R-212- (Cher)

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 20, 1902.

In the matter of the application of Sarah A. Fields for the enrollment of her child Bertha (Bird or Birdie) Fields as a citizen by blood of the Cherokee Nation.

Sarah A. Fields, called as a witness, being first duly sworn by the Commission, testified as follows:

Q What is your name? A Sarah A. Fields.
Q How old are you? A 36 years.
Q What is your postoffice? A Blue Jacket, I.T.
Q Are you a citizen of the Cherokee nation? A No, just an adopted citizen
Q You are a citizen by intermarriage are you? A Yes sir.
Q You say you want to make application for a child? A Yes sir.
Q What is the child's name? A Bertha Fields.
Q How old is it? A She is eleven years old.
Q Who is the mother of that child? A I am.
Q Who is its father? A W. W. Fields.
Q W. W. Fields is your husband, is he not? A Yes sir.
Q Were you and W. W. Fields married at the time this child was born?
A No sir.
Q When were you married? A We was married in 1891.
Q And the child was born when? A 1890
Q Did you ever make application for this child before? A No, I never did
Q Where is this child now? A She is living with me.
Q Has Bertha Fields lived in the Cherokee nation all her life? A Yes.
Q Why havn't you made application for this child before this? A There's been a good many told me there was no use, and I just neglected it and didn't see about it.
Q When did Field's first wife die? A She has never died; they was separated.
Q They were separated when? A I don't know.
Q How many years before you were married? A They had been separated about two years.
Q This child was born a year before you married him? A Not a year before--yes, nearly that too, I guess.
Q Has Fields ever recognized this child as his? A Yes sir.
Q Is Bertha Fields on any of the tribal rolls of the Cherokee nation?
A Yes, I think she was enrolled; she has been enrolled on some of the rolls; I don't know the dates of the rolls.
Q What was your name before you married Fields? A Sarah A. Moudly.

It appears from an examination of the records that application was made on October 2, 1900, by W. W. Fields for the enrollment of Birdie Fields, and that she is listed on Cherokee card R-212. No further action will therefore be taken in the matter of the application now being made for the enrollment of said Bertha Fields.

Frances R. Lane, upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R Lane

Subscribed and sworn to before me
this 25th day of October, 1902

Notary Public.

D-480
Cherokee

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 20, 1902.

In the matter of the application of Sarah Fields for enrollment as a citizen by intermarriage of the Cherokee nation, and for the enrollment of her husband William W. Fields, and her children Jesse, Dora, Della, Eugene, Howard E., Cledah, Lavella, Edward and Ines, as citizens by blood of the Cherokee nation.

Sarah A. Fields, called as a witness, being first duly sworn by the Commission, testified as follows:

Q Your name is Sarah A. Fields? A Yes sir.
Q How old are you? A About 36.
Q What is your postoffice address address? A Blue Jacket, I.T.
Q Are you a white woman? A Yes sir.
Q What is your husband's name? A William W. Fields.
Q Is he a Cherokee by blood? A Yes sir.
Q How long has your husband been living in the Cherokee nation? A I guess he came here when he was quite a little child, only 2 or 3 years old.
Q Has he been living in the Cherokee nation ever since? A Yes sir.
Q You are claiming citizenship through him? A Yes sir.
Q When were you married? A Married in 1891.
Q Is William W. Fields your first husband? A Yes sir.
Q Are you his first wife? A No sir.
Q How often had ~~you~~ he been married before he married you? A Once.
Q What was his first wife's name? A Nellie.
Q Was she a white woman? A Yes sir.
Q Is she dead or living? A She is living.
Q Were they divorced? A Yes sir.
Q Do you know if a copy of the decree of divorce has been filed with this Commission? A Yes, it has been filed.
Q What year were they divorced? A They were divorced in 1891.
Q Before you married him? A Yes sir.
Q Have you and your husband been living together ever since you were married? A Yes sir.
Q You have never been separated? A No sir.
Q And are living together now? A Yes sir.
Q How many children have you by your husband William W. Fields? A I have seven.
Q You have seven by this husband? A Yes sir.
Q What are their names? A Bertie.
Q Who is the eldest? A Bertie is the eldest.
Q How old is he? A Eleven years.
Q Are you sure it is Bertie? Isn't it Jesse? A That's the name he goes by; Jesse is his right name.
Q Jesse, Dora, Della, Eugene, Howard E., Cledah, Lavella-- A That's one of his first wife's children.
Q And is Emma his first wife's child? A Yes sir.
Q They are all your children except two of these children I have named?
A Yes, there is six of mine, and the others is his by his first woman
Q Who is Cledah? A She is mine.
Q Is Ines yours? A Yes.
Q This Jesse? A Jesse is his first wife's child.
Q There are six of these children yours, and three by his first wife? A Yes sir.
Q Are all these children living? A Yes sir.
Q And your husband is living? A Yes sir.

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Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she recorded correctly the proceedings in the above entitled cause, and the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane

Subscribed and sworn to before me this Oct. 25th, 1902

Notary Public.

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-480

Muskogee, Indian Territory, March 12, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, granting the application of William W. Fields for the enrollment of himself and his children, Jesse, Dora, Della, Eugene, Howard E., Cledah, Louella, Edward and Inez Fields, as citizens by blood, and for the enrollment of his wife, Sarah A. Fields, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-1321

Cherokee D 480

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of William W. Fields, for the enrollment of himself, and his minor children, Jesse, Dora, Della, Eugene, Howard E., Cledah, Louella, Edward and Inez Fields, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Sarah A. Fields, as a citizen by intermarriage of the Cherokee Nation.

DECISION

The record in this case shows that on October 2, 1900, William W. Fields appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself and his minor children, Jesse, Dora, Della, Eugene, Howard E., Cledah, Louella, Edward and Birdie Fields, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Sarah A. Fields, as a citizen by intermarriage of the Cherokee Nation. Birdie Fields has been differently classified, and is not embraced in this decision. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 28, and October 20, 1902. On March 7, 1902, a birth affidavit was filed for Inez Fields, a child of the applicant, born since the date of the original application.

The evidence shows that William W. Fields is a Cherokee Indian. He is not identified on the authenticated tribal roll of 1880, having been moving from one district to another during the preparation of that roll and was missed by the census takers, but he is identified on the Cherokee pay rolls of 1883, 1886 and 1894, and on the Cherokee Census rolls of 1890 and 1896.

The evidence further shows that William W. Fields was first married on October 5, 1879, to one Nellie Fitzgerald, a white woman, and that he was divorced from her on September 9, 1891. His present wife, Sarah A. Fields, was married to him on September 13, 1891, Sarah A. Fields being a white woman.

Jesse, Louella and Edward Fields are the children of the principal applicant by his first wife. The other six children are the issue of his marriage to his second wife, Sarah A. Fields. Inez Fields, having been born since the date of the original application, is duly identified by a birth affidavit made a part of the record herein. Sarah A. Fields and the six elder children are identified on the Cherokee Census roll of 1896. The three youngest children are identified by birth affidavits made a part of this record.

The evidence further shows that William W. Fields has resided in the Cherokee Nation from childhood and that he and his wife, Sarah A. Fields, lived together in said Nation from the date of their marriage up to and including September 1, 1902. The minor children herein are considered to have resided in said Nation all their lives.

It is, therefore, the opinion of this Commission that William W. Fields, Jesse Fields, Dora Fields, Delia Fields, Eugene Fields, Howard E. Fields, Cleoah Fields, Lovelia Fields, Edward Fields and Inez Fields should be enrolled as citizens by blood of the Cherokee Nation, and that Sarah A. Fields should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

this MAR - 2 1903

THE MATTER OF THE APPLICATION

William W. Fields

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

D1432

A. Original testimony. Oct 2nd 1900.
B. Memo. of application Oct. 2-1900
C. Certificate of marriage.
D. Affidavit of birth Howard E. Fields
E. Affidavit of birth—Cledah Fields
F. Supplemental testimony Oct 3-1900
G. Notice of final consideration 2-28-190

Cancelled Cherokee

D11/21/02

H Certified copy of marriage cert. & certf. of Clerk.

See Jacket No D512

R. 2/2

G Supplemental testimony and order closing case. 2/28/02

Cher D 481

Cher D 481

8481

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 18 1900

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 1st, 1900.

IN THE MATTER OF THE APPLICATION OF SARAH E. SKILLMAN FOR THE ENROLLMENT OF HERSELF, HER HUSBAND AND ONE CHILD, AS CHEROKEE CITIZENS.

The said Sarah E. Skillman, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name please. A Sarah E. Skillman.
Q How old are you? A Thirty-seven years old.
Q What is your post office? A Big Cabin
Q In what District do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A My husband and myself.
Q Do you apply as a Cherokee by blood? A Yes, sir.
Q Is your husband a Cherokee by blood? A No, sir; he is a white man.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What was your name before it was Skillman? A Goody.
Q Was that your maiden name? A Yes, sir.
Q When were you married? A In 1887.
Q Have you your certificate and marriage license? A No, sir; I have got witnesses here though.
Q Didn't your husband get a Cherokee license? A He was married before I married him, but his wife died. He was married in 1879.
Q You and he have lived together ever since you were married in 1887? A Yes, sir.
Q Give me your husband's name, please.
A John Skillman.
Q Any middle name? A Yes, sir; John E. Skillman.
Q How old is he? A Fifty nine.
Q You say he was first married to a Shawnee in 1879? A Yes, sir.
Q He is on the roll of 1880, then? A Yes, sir.
Q Now what was the name of the wife? A Before she married him? A
Q No, her given name A Jane.
Q When did she die? A She has been dead, I guess, about eight or nine years, since I knowed anything aboutit.
Q Well, he married you in 1887? A Well, I know. He had a divorce from her, and theyhave been separated ever since 1886, and she died finally.
Q Have you a copy of the decree of divorce? A No, sir; I have not.
Q Where is he, is he here? A Yes, sir; he is in town somewhere
Q Do you know anything about the particulars of their separation? A Well, I don't know. They were separated before we got acquainted, but I can get witnesses to that effect.
Q He never married but the two women? A No, sir; he never married except us, and he has been living in the Territory ever since 1865, I believe.
Q Give me the name of your child? A Bessie D. Skillman.
Q How old is that child? A She is 11 years old; she was born in 1889.
Q She is living now is she? A Yes, sir.

1880 Roll, page 77, No. 455, Sarah Coody, Cooweescoowee District. Native Cherokee.

1880 Roll, page 172, No. 2580, John Skellman, Cooweescoowee District. Adopted white.

1896 Roll, page 255, No. 4413, Sarah Skillman, Cooweescoowee District.

1896 Roll, page 3[illegible]3, No. [illegible], John Skillman, Cooweescoowee District.

1896 Roll, page 256, No. 4419, Bessie Skillman, Cooweescoowee District.

THE COMMISSIONER: The applicant applies for the enrollment of herself, her husband and one child. She is identified on the rolls of 1880 and 1896 as a native Cherokee; she has lived in the Cherokee Nation all her life and she will be listed now for enrollment as a Cherokee by blood.

Her child is identified with her on the roll of 1896; she is living at this time, and will be listed now for enrollment as a Cherokee by blood.

Her husband is identified on the roll of 1880 as an adopted white. His Shawnee wife, to whom he was married at that time, is dead; he is stated to have been divorced from her about 1887, but no copy of the decree of divorce is supplied at this time. He is identified with his present wife on the roll of 1896. For the further consideration of his application, it will now be placed upon a doubtful card, he being classed as an intermarried Cherokee, and he is required to supply the Commission with an official copy of his decree of divorce.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 18th day of October . . 1900.

Commissioner.

Cherokee D 381

a.F.Mc

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emma J. Samuels and Robbie J. Samuels, as citizens by blood of the Cherokee Nation.

--:--

DECISION.

The record in this case shows that on September 21, 1900, Emma J. Samuels appeared before this Commission at Vinita, Indian Territory, and made application for the enrollment of herself and minor child, Robbie J. Samuels, who at that time was sixteen years old, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had February 26, 1902, and January 25, 1906, at Muskogee, Indian Territory.

The evidence in this case shows that the principal applicant, Emma J. Samuels, is a Cherokee by blood, was born in the Cherokee Nation about the year 1859, and continuously resided therein until about the year 1875; that in the year 1878 she was married, in Missouri, to one Robert Samuels, a non-citizen of the Cherokee Nation; that thereafter, she, with her husband, returned to the Cherokee Nation, where they lived until about the year 1880, when, together with her husband, she removed from said Nation, and except occasional visits made to the Cherokee Nation has since lived continuously outside the limits of the Indian Territory; and, after ample opportunity having been afforded, it is not by satisfactory evidence established that said principal applicant owned or controlled any property in the Cherokee Nation since her removal therefrom as above indicated.

Section II, Article I, Cherokee Constitution, in part, provides:

> "Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease; ...."

The applicant, Robbie J. Samuels, is the child of the applicant, Emma J. Samuels, was born since the said Emma J. Samuels forfeited her citizenship in the Cherokee Nation, and possesses no rights to enrollment other than as a descendant of her said mother.

The applicant, Emma J. Samuels, is identified on the Cherokee Strip payment roll of 1894, and both applicants are identified on the Cherokee census roll of 1896, but the said Emma J. Samuels can not be identified on the Cherokee authenticated tribal roll of 1880.

It is, therefore, the opinion of this Commission that the name of Emma J. Samuels appears upon the Cherokee Strip payment roll of 1894, and Cherokee census roll of 1896, and the name of Robbie J. Samuels appears upon the Cherokee census roll of 1896, without authority of law, and that the application for the enrollment of Emma J. Samuels and Robbie J. Samuels, as citizens by blood of the Cherokee Nation, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby

Chairman

(SIGNED). T. B. Needles.

Commissioner

Commissioner

dated at Muskogee, Indian Territory,

this APR 15 1902

Cherokee D-481.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 4, 1902.

In the matter of the application of John S. Skillman for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A John S. Skillman.
Q What is your age at this time? A Sixty years old last March.
Q What is your postoffice address? A Big Cabin.
Q Are you the same John S. Skillman that made application to the Commission for enrollment as an intermarried citizen on October 1, 1900? A Yes sir.
Q What is your wife's name? A Sarah E. Coody it used to be.
Q Is she a citizen by blood of the Cherokee Nation? A Yes, Cherokee by blood.
Q When were you and Sarah E. married? A We were married on the 16th day of May in '89.
Q Had your wife, Sarah E., ever been married before she married you?
A Yes sir, she was married once before.
Q Was her husband living or dead? A Her husband wasdead.
Q Had you ever been married before you married Sasah E.? A Yes sir.
Q Sarah E. is your second wife? A She is my second wife.
Q And you are her second husband? A I am her second husband.
Q Was your first wife living or dead when you married Sarah E.? A She was living at that time.
Q Was she, your first wife, a citizen by blood of the Cherokee Nation? A A Shawnee by blood.
Q A Cherokee citizen of Shawnee blood? A A Cherokee citizen by adoption.
Q Shawnee? A Shawnee.
Q When were you and your fist wife married? A We were married in '80 and we parted in '87.
Q You lived with her then from 1880 until 1887? A Yes sir.
Q Then you separated? A Yes sir.
Q What was the cause of your separation? A He deserted me.
Q She left you? A She left me.
Q Did you marry her under a Cherokee license, your first wife? A Yes sir, married according to the laws of the Cherokee Nation.
Q What was the cause of her leaving you? A For meanness.
Q Didn't you run off? A No sir.
Q Did you treat her mean? A I treated her good, as wel as any man could treat her. I provided for her,and she deserted me while I was away from home, and sold everything I had.
Q Where did she go to? A To Kansas City.
Q How long did she stay there? A She stayed there until she got $1800 and then she came back to the Cherokee Nation and died.
Q You never lived with her anymore? A I never lived with her afterwards.
Q Didn't you give her cause to leave you? A No sir.
Q No cause whatever? A No cause whatever.
Q Did you ever try to get her to come back after she left you?
A No sir.
Q Did she offer to come back and live with you? A She never did.
Q Did you ever talk to her afterwards? A I never seen her after she left me.
Q When you married this second wife you didn't have any Cherokee license did you? A No sir.
Q Have you filed a copy of your divorce from your first wife? A I have.

Q Have you and this last wife lived together ever since you were married up until the present time? A We lived together ever since we were married.
Q Never have been separated? A And never missed six nights in sleeping together since we were married.
Q Were you living together, you and your second wife, on the first day of September, 1902? A Yes sir.
Q You never married any other woman since you married this second wife? A No sir, never have.
Q How long have you lived in the Cherokee Nation? A Ever since '66.
Q All the time? A All the time principally, I have been out different times and have been out a year at a time.
Q Have you lived here ever since 1880? A Yes sir, ever since 1880.
Q In the Indian Territory, Cherokee Nation? A Yes sir.
Q Where has your present wife lived since '80 up to the present time? A She lived with me for the last fourteen years, and she was born and raised on the Verdigris.
Q Has she always lived in the Cherokee Nation for the last fourteen years? A She always lived here.
Q What about these two children, Bessie D. and John O., are these all the children your wife has? A Yes sir.
Q Are these two children living now? A Yes sir.
Q Have they lived all their lives in the Cherokee Nation? A Yes sir, they have lived all their lives in the Cherokee Nation.
Q Where were you living when you and your first wife separated? A We lived right where we live now, within two miles of where we live now on WhiteOak.
Q In the Cherokee Nation? A Yes sir, in the Cherokee Nation.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 22nd day of October, 1902.

B. C. Jones
Notary Public.

Cherokee D 421

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DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of John S. Skillman as a citizen by intermarriage of the Cherokee Nation.

DECISION

The record in this case shows that on October 1, 1900, Sarah Skillman appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of her husband, John S. Skillman, as a citizen by intermarriage of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 4, 1902.

The evidence shows that John S. Skillman was lawfully married in 1879 to a Cherokee citizen of Shawnee blood, and he is identified on the roll of 1880 and also on the Cherokee census roll of 1896 as an adopted white. The evidence further shows that the said John S. Skillman lived with his said wife until 1887; that they then separated and that he secured a divorce from her in 1889. There is no evidence that he abandoned her.

Section twenty-one of the Act of Congress approved June 28, 1898, provides for the enrollment of Cherokee citizens "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 666 of the Compiled Laws of the Cherokee Nation (1892) provides:

> "Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person (as the case may be) having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease."

It appears that the said John S. Skillman acquired rights of Cherokee citizenship by marriage to a citizen of the Cherokee Nation of Shawnee blood prior to 1880, and that since his divorce from said wife he has married one Sarah E. Coody, a citizen by blood of the Cherokee Nation.

The evidence further shows that the said John S. Skillman has resided in the Cherokee Nation ever since [illegible].

It is, therefore, the opinion of this Commission that John S. Skillman should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED Tams Bixby
Acting Chairman.

SIGNED T. B. Needles.
Commissioner.

SIGNED C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

this DEC - 1 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:

Cherokee D 481.

Muskogee, Indian Territory, December 3, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, granting the application of John S. Skillman for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 73.

COPY

Tahlequah, Indian Territory, April 13, 1905.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

In Cherokee doubtful case No. 381 relating to the enrollment of Emma J. Samuels and Robbie J. Samuels as Cherokee citizens by blood, said case being returned herewith, I respectfully dissent from the adverse decision signed therein by Commissioners Bixby and Needles.

This is a case of forfeiture and is one of mother and daughter, the daughter apparently being a minor and unmarried at the time of the application of September 21, 1900, but recently married at the time of the taking of supplemental testimony January 25, 1905.

There seems to be no dispute or question as to the mother having originally an undisputed right of Cherokee citizenship. Many years ago she left the Territory, married a non-citizen, and has lived in various places, but returning from time to time to the Territory where she had close relatives and some family and other property. She was duly enrolled in 1894 and 1896 and her daughter was enrolled with her. Her claim to the possession of property, namely, an undivided interest in the old family home and a lot that she bought from her sister in Vinita, is undisputed and apparently must, if the case be acted upon at this time, be accepted upon her own statements of fact.

There is evidently something in the life of the woman that she is exceedingly anxious to conceal and the same may be said of the surroundings of her daughter, but there is no reason to believe from the testimony that any of these circumstances are of a nature to affect their citizenship rights.

I believe that the daughter's marriage and such living out of the Territory as she has been doing and is doing is too recent and is of such a character as not to require or justify a forfeiture of her citizenship rights.

I believe that the equities of the case as construed under the established line of practice followed by the Commission and laid down by the Department do not justify a forfeiture of the mother's Cherokee rights. There are various features upon the face of this case calculated to prejudice it upon a casual observation, but I believe these to be the essential facts and principles and consequently I vote in favor of the enrollment of these two applicants, and if the other Commissioners dissent from that view, I respectfully request that the case be forwarded to the Department for its final determination.

Respectfully,

(Signed) C. R. Breckinridge,

Commissioner.

MH
Enc. H-131

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

D 611

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-481.

Muskogee, Indian Territory, April 15, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 15, 1905, rejecting the application for the enrollment of Emma J. Samuels, et al., as citizens by blood of the Cherokee Nation, Commissioner C. R. Breckinridge dissenting.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Incl. S-36.

N THE MATTER OF THE APPLICATION OF

John S. Skellman

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Oct 1. 1900.
B Memo of application Oct 1. 1900.
C. Certified copy of record divorce case.

[illegible] enrolled

[illegible]

Cancelled [illegible] 13, 1903,
and transferred to Cherokee
[illegible]

See Cherokee Jacket 2817

Enrolled

DH82

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT [illegible] 1900
Acting Chairman

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1900.

In the matter of the application of John W. Dawson for the enrollment of himself as a Cherokee by blood, and his wife as a Cherokee by intermarriage;. being sworn and examined by Commissioner Breckenridge, he testified as follows:

Q Give me your name, please? A John W. Dawson.
Q How old are you? A 29 years old.
Q What is your post office? A Afton
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A Myself and my wife.
Q Any children? A No, sir.
Q Do you apply as a Cherokee byblood? A Yes, sir.
Q Your wife a Cherokee? A No, sir.
Q How long have you lived in the Cherokee Nation? A Ever since 1886.
Q Were you admitted to the Cherokee Nation in 1886? A In 1883.
Q Is your name on this certificate? A No, sir, that is my uncle on there.
Q Where do you come in? A I come in on my father, Riley Dawson, he has done been enrolled.
(The applicant presents an official certificate signed by W. H. Moss, Assistant Executive Secretary of the Cherokee Nation, under the seal of his office, certifying that on the 11th day of January, 1883, certain persons were admitted to citizenship by the Commission or Court known as the Teehee Court, they being "admitted to all the rights and privileges of citizenship in the Cherokee Nation by virtue of their Cherokee blood." Among other persons, appears the name of Rial Dawson.)
Q You say that is the name of your father? A Yes, sir.
Q Your name isn't on the list? A No, sir, I wasn't but fourteen.
Q And you claim admission by reason of being a minor at that time?
A Yes, sir, I was born in 1870.
(No mention is made in the certificate of its including any member of Rial Dawson's family.)
Q Your father is the only one of your family whose name is mentioned here? A Yes, sir.
(This is recognized as an official statement of the admission of applicant's father as stated.)
Q When did you come to the Cherokee Nation? A In 1886.
Q Have you lived here ever since? A Yes, sir.
Q What is the name of your wife? A Nannie Dawson.
Q Have you got a certificate of marriage? A Yes, sir.
(The applicant presents a certificate of marriage from the Clerk of Delaware district, showing that the applicant was united in marriage to Miss Nancy Baugher on September 4, 1894. This is filed herewith.)
Q Your wife's full name now is Nannie Dawson? A Yes, sir.
Q How old is she? A 23 years old.
Q She live with you as your wife ever since you were married?
A Yes, sir.
(John W. Dawson on 1896 roll, page 480, No. 870, Delaware district.)

The applicant applies for the enrollment of himself and wife. He shows that his father was admitted to Cherokee citizenship in 1883. The applicant himself has never been admitted in name, nor has he been included in any general expression of "family." He is identified on the roll of 1896 as a native Cherokee. He states that he came to the Cherokee Nation in 1886, and that he has lived in the Cherokee Nation ever since. It is by no means clear that he has any

John W. Dawson - [illegible]

rights arising under the [illegible] at that time. The applicant [illegible] upon a doubtful card, so being classed as a [illegible] wife is shown [illegible] to have been married to him in [illegible] identified on the roll of [illegible]. She has lived with him in the Cherokee Nation ever since their marriage in 1874. For the further consideration of any rights she may possess, through her marriage, the application for her enrollment will now be placed upon a doubtful card, she being classed thereon as a Cherokee by adoption.

(The Cherokee Nation, through its attorneys, claims that the applicant and his wife have no right to enrollment, and under under paragraph 2 of the instructions of the Secretary of the Interior, given under the Assistant Attorney General of that Department, dated March 17, 1899, and claims that under that paragraph his name should be stricken from the roll of 1880, as it was placed there without any authority of law.)

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 2nd of October, 1900.

Commissioner.

FILED

D482

DAWSON CASE.
Cherokee D-482.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1902.

In the matter of the application of John V. Dawson for the enrollment of himself as a citizen by blood, and for the enrollment of his wife, Nannie Dawson, as a citizen by intermarriage of the Cherokee Nation.

Albert H. Dawson, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Albert H. Dawson.
Q What is your age? A 28.
Q What is your postoffice? A Afton.
Q Are you acquainted with John V. Dawson who is an applicant before this Commission for enrollment as a citizen by blood? A Yes sir, he is my brother.
Q You have known him all your life? A Yes sir.
Q Are you acquainted with his wife, Nannie? A Yes sir.
Q Who is an applicant for enrollment as an intermarried citizen? A Yes sir.
Q How long have you known his wife? A Ten years.
Q For the last ten years? A Yes sir.
Q When was John V. Dawson and his wife, Nannie, married, how long ago? A '93 I believe.
Q Was John V. Dawson ever married prior to his marriage to his wife, Nannie? A No sir.
Q Was she ever married prior to her marriage to him? A No sir.
Q Have they lived together as husband and wife ever since their marriage? A Yes sir.
Q Never separated? A No sir.
Q She has never married any other man? A No sir.
Q They were living together on the first day of September, 1902? A Yes sir.
Q How long has John V. Dawson lived in the Cherokee Nation? A For the last 16 years.
Q How long has his wife Nannie lived in the Cherokee Nation? A Ten years I think, probably longer than that.
Q All the time for the last ten years? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E G Rothenberger

Subscribed and sworn to before me this 20th day of October, 1902.

B C Jones
Notary Public.

CHEROKEE. 84

Fannie ~~John W~~ Dawson

1 W

April 12, 1904, No 1 transferred to Cherokee No 10739

COPY OF TESTIMONY FILED WITH THE CHEROKEE NATION.

OCT 16 1907 Cancelled and transferred to Cherokee D-1131

See D394

Cher D 483

Cher D 483

BH83

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 2 1900
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., [illegible] Oct. 1, 1900.

In the matter of the application of MINNIE HALLUM for the enrollment of HERSELF as a Cherokee by blood and her HUSBAND as a Cherokee by intermarriage; being sworn and examined by Commissioner Breckinridge, she testified as follows:

Q Give me your name? A Minnie Hallum.
Q How old are you? A I am 47.
Q What is your post office? A Vinita.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll, yourself? A Yes, sir.
Q Who else? A My husband.
Q Who else, how many children? A I haven't got any children only those of age.
Q You apply for yourself as a Cherokee by blood? A Yes, sir.
Q Your husband a Cherokee? A No, sir, he is a white man.
Q How long have you lived in the Cherokee Nation? A I have lived in the Cherokee Nation 38 years.
Q Give me your father's name? A Isaac Parrish.
Q He dead or alive? A He is dead.
Q How long since he died? A More than 20 years ago.
Q Your mother's name? A Virginia Parrish.
Q She dead? A She is dead.
Q She been dead more than twenty years ago? A Just two years.
Q When were you married? A I was married 15 years ago to my present husband.
Q What is his name? A [illegible] Hallum.
(The applicant presents an official copy of the records of Cooweescoowee district, showing that on the 30th day of May, 1885, license was issued for the marriage of A. J. Hallum, to Mrs. Mary E. Rodman, and the same were solemnized by the Rev. John W. Evans, June 28, 1885. Which is filed herewith.)
Q What was the name of your former husband? A My former husband was named Thomas Rodman.
Q He is dead, is he? A No, sir, he is living in the Chickasaw Nation.
Q Did you have a divorce from him when you married this husband?
A Yes, sir, I had a divorce.
Q Have you a copy of the decree? A No, sir, I haven't.
Q When were you divorced from him? A In 1894.
Q You were married to this husband in 1885; you didn't get your divorce till 1894? A No, I got my divorce before we was married; 1884 I meant.
Q In 1880 you were Rodman? A Yes, sir.
Q Now give me your husband's full name? A He signs his name A.J. Hallum.
Q What is the A for? A Adolphus J. Hallum.
Q How old is your husband? A. Four years old.
Q Has he lived with you ever since he married you in 1885? A Yes, sir.
(Minnie Hallum on 1880 roll, page 308, page 2178, Minnie Rodman, Delaware district, adopted Shawnee; on 1896 roll, page 344, No. 215, Minnie Hallum, Cooweescoowee district. Adolphus J. Hallum on 1896 roll, page 503, No. 474, Cooweescoowee district.)

The applicant applies for the enrollment of herself and husband, he being a white person. She is identified on the rolls of 1880 and 1896, she has lived in the Cherokee Nation ever since her enrollment in 1880, her change of name is established by the marriage license and certificate filed herewith. She will be listed now for enrollment as a Cherokee-Shawnee. Her husband is identified
w

[illegible] —

[illegible] he is a white man, [illegible] is shown to have [illegible] [illegible] before he [illegible] here. [illegible] be listed as an [illegible] Commission.

Isaac G. Jones, being duly sworn, says that he is stenographer to the Commission to the [illegible] as such [illegible] reported the proceedings and testimony [illegible] is a true and complete transcript of his stenographic notes thereof.

Isaac G. Jones

Sworn to and subscribed before me this the 2nd of October, 1900.

Commissioner.

Supl.-C.D.#483.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL IN THE MATTER OF THE ENROLLMENT OF ADOLPHUS J. HALLUM AS A CITIZEN OF THE CHEROKEE NATION.

The applicant was notified by registered letter February 12, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 28th day of February, 1902. That he could on said day appear before the Commission either in person or by attorney and an opportunity would be given him to introduce any further testimony affecting his application. Receipt has been acknowledged of the Commission's letter. The applicant hs this day, to-wit: the 28th day of February, 1902, been called three times and failing to respond either in person or by attorney it is directed that the case be closed, and the same be reported to the Commission for a final decision based upon the evidence now of record.

Mr. W. W. Hastings, Cherokee Representative, present.

JCR

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUL 10 1902
ACTING CHAIRMAN

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, June 27th, 1902.

In the matter of the application of Adelphus J. Hallum for the enrollment of himself as a citizen by intermarriage of the Cherokee nation.

Supplemental to D 483.

Appearances:
Applicant by Mary E. Hallum.
Cherokee Nation by W. W. Hastings.

Mary E. Hallum, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Mary Elizabeth Hallum.
Q. How old are you? A. You can go to the marriage certificate and find out. I fear I wouldn't give you the date correct.
Q. About how old? A. (no response)
By Mr. Hastings:
Q. Do you know? A. No, sir; I don't know.
By the Commission:
Q. What is your post office address? A. Vinita.
Q. Are you the wife of Adelphus J. Hallum? A. Yes, sir.
Q. When you appeared before the Commission at Vinita in October, 1900, you stated your name was Ninnie. A. It may have been a mistake.
Q. What is your name? A. Mary Elizabeth is my correct name.
Q. Are you sometimes known as Ninnia? A. Yes, sir; I been called Ninnia.
Q. In the copy of the decree of divorce your name appears Ninnia. Are you the identical person appearing in there as Ninnia?
A. Yes, sir; I am the identical person. I don't know how it come.
Q. There is identified on the roll of 1880 the name of one Ninnia Redman. Are you the person identified as Ninnia Redman?
A. Yes, sir; the same person.
Q. Your correct name is Mary E? A. Yes, sir.
Q. Mary E. Hallum at this time? A. Yes, sir.
Q. How often have you been married? A. I never been married but twice.
Q. What is the name of your first husband? A. T. P. Redman.
Q. Was he a Cherokee or white man? A. He was a white man.
Q. Was his given name Thomas? A. Yes, Thomas. Thomas Preston. T. P.
Q. When were you married to Mr/ Redman? A. Mr. Redman?
Q. Just about when? A. Well, I realy couldn't tell you just when.
Q. About what year was it? A. About what year? I have got the papers at home that tells what year but I didn't bring it.
Q. You mean to say you haven't any idea what year you were married? A. No, I can't tell you just what year. I realy can't tell you.
Q. Can't you come within a year or two years of the time? Was it as much as 10 years ago? A. Oh, yes; more than 10 years ago.
Q. Was it as much as 20 years? A. Just wait a minute. I can come near it. 26 or 27 years ago. We lived together 9 years and we separated.
Q. Do you remember in what year you separated? A. I couldn't tell you just what year we did separate.
Q. The copy of the decree of divorce shows, Mrs. Hallum, that you were divorced from your former husband on the 12th day of May, 1890. You stated when you appear before the Commission at Vinita that you were divorced from your husband in 1884. Which date is correct?

A. I was divorced from my husband when I married my present husband.

Q. When were you married to him? A. I have been married to him 13 years.

Q. That would make it about 1889, is that correct? A. (no response)

Q. Who married you to your second husband--who performed the ceremony? A. I forget the minister's name. I can very easily get it at Vinita and send you his name.

Q. Haven't you any idea what year you were married to your second husband? A. Don't you know how long it has been? Have you any children by him, your second husband? A. I haven't living.

Q. Have you had any by your second husband? A. Yes, sir; three.

Q. How old would the oldest one be if it were living? A. I couldn't say just how old.

Q. You can't tell anything about this divorce? A. No, sir.

Q. In the marriage certificate and decree of divorce thereis a discrepancy of 5 years.

Examination by Mr/ Hastings.

Q. Who was your attorney to get this divorce? A. Mr. Merrill. Jim Merrill.

Q. Was it before Judge Highland or Judge Bangs. A. I couldn't tell you which one but he was the man that got the divorce for me.

Q. Where did you get it in Cooweescoowee or Delaware? A. I got it in Delaware district. There is it, you can look at it.

Q. Well, I know. I thought you would know something about this.

Q. You say Mr/ Merrill was your attorney? A. Yes, sir.

Q. He is an intermarried Cherokee? A. Yes, sir.

By the Commission:

You are to furnish the Commission with a copy of the decree showing on what date you got the divorce from your former husband, Thomas Redman. You are also to furnish us with such information as you can to determine when you married your first husband and when you were married toyyour second husband. You will have to furnish that information within 10 days from to-day.

Examination by Mr. Hastings.

Q. Were you married by Rev. John W. Evans? A. John W. Evans?

Q. Yes. You don't remember, do you? A. Mr. Ketchum married me the first time.

Q. Your last husband--the last time. A. The last time was a minister in Vinita. I was married over the second time.

Examination by the Commission.

Q. You were married to your present husband two times? A. Yes, sir.

Q. When were you married to him the first time? A. I can bring proof to you and testify just what date I was married.

Case continued to 10 days from date hereof.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 2 day of July, 1902.

Seal

P. G. Reuter
Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
25 1902
ACTING CHAIRMAN

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, July 23rd, 1902.

In the matter of the application of Adolphus J. Hallum for the enrollment of himself as a citizen by intermarriage of the Cherokee nation.

Supplemental to D-483.

Appearances:

Applicant appears in person.
Cherokee Nation by W. W. Hastings.

ADOLPHUS J. HALLUM, being duly sworn, testified as follows:-

Examination by the Commission.

Q. What is your name? A. A. J. Hallum or Adolphus J. Hallum, whatever you want to call it.

Q. How old are you? A. About 41 years old last September.

Q. What is your post office address? A. Vinita.

Q. What is the name of your wife through whom you claim the right to enroll? A. Minnie or Mary Elizabeth.

Q. Which is her correct name? A. Well, now, I don't know. In her infancy she was called Mary Elizabeth but then she is known everywhere as Minnie.

Q. When were you married to her? A. Well, sir; I couldn't tell you. I never saw the copy of the divorce or the license. I never have seen them.

Q. You don't know when you were married to your wife? A. No, sir; I don't.

Q. Haven't you any idea? A. Well, I might have a idea.

Q. Well, what is your best judgment? A. I couldn't tell you. I never could get a copy of my marriage certificate. I tried and tried. This that you have, I never seen that. I never saw the decree of divorce.

Q. Was your wife ever married before she married you? A. Yes, sir; I suppose she was. I never saw her husband but then I guess she was.

Q. Do you know when she was divorced from her husband? A. No, sir; I don't.

Q. Was it before or after your marriage? A. Well, she claimed she had a divorce. Of course there was no question about it until she appeared before the Dawes Commission at that time and then they required a copy of the divorce.

Q. Did she ever institute proceedings for a divorce after you were married? A. She might have.

Q. Didn't you live with her? A. Yes, sir.

Q. Did she ever go into any court? A. Not that I know of.

Q. How often were you married to this wife? A. Twice.

Q. Do you know when the first time was? A. No, sir; I don't.

Q. Do you know whenthe second time was? A. Sometime in 1896, I think.

Q. 1896? A. I think so, yes. Now, I am just thinking this. I don't know that it is a fact, but it was in that year I think.

Q. Did you have any children by your present wife, Mary Elizabeth Hallum? A. We have had three children but they are all dead.

Q. How old would the oldest child be if it were living? A. Well, I believe it would be about 14 years old this last March or April. I ain't sure now, but I think that would be just about its age. I think you have one here on the rolls.

Q. You don't know anything about your wife's first husband, T. P. Redman? A. No, sir; I don't know.

Q. Did you ever see him? A. No, sir; I never saw him. Know nothing about him. Well, now, hold on; I did see him once in a buggy two years ago. He lives in Oklahoma. They said it was him, and my step daughter. He come to see--she has two children--he came to see them. I will take that back. I did see him in a buggy.

Q. When your wife appeared before the Commission in 1900 she stated she was divorced from her first husband in 1884; the decree shows that she was not divorced until 1890; the evidence of your marriage shows that you were married in 1885, or five years before she procured a divorce. After you were married five years then she procurred a divorce from her first husband. A. Might be.

Q. Don't know? Do you know whether she ever instituted proceedings for a divorce after she married you? A. I don't know. She might have done it. She claimed to have a divorce when we married.

Q. Do you know she didn't institute proceedings for a divorce after you were married? A. No, I don't.

Examination by Mr. Hastings.

Q. Well, you gave the date of your marriage in 1895. You mean 1885? A. No, the reason is we were married twice.

Q. Do you mean to say you were married again in 1895? A. Yes, sir.

Q. 6 or 7 years ago? A. Yes, sir.

Q. Wasn't you married in accordance with the Cherokee law then?
A. Yes, sir.

Examination by the Commission.

Q. Mr. Hallum, where were you living the first time you were married? A. I was living in Delaware district.

Q. Who performed that ceremony? A. A man by the name of Evans.

Q. About how long has that been? A. Just as I stated on the start, gentleman, I can't tell. I never did get them papers. I never seen them. I can't tell you.

Q. Subsequent to the marriage performed by Mr. Evans you married again? A. Yes, sir.

Q. You states that was in 1895? A. Well, I think it was.

Q. That is as near as you can remember. A. Yes, sir.

Q. What was the cause of this second marriage? A. She went off and left me several times. I never could get a copy of the marriage certificate, consequently we married again in Cooweescoowee In Claremore. Send to Claremore, Cooweescoowee district and you can get the record of that marriage.

Q. Who performed that ceremony? A. Well, I don't know the man's name. He is a preacher at Vinita.

Q. How often did you separate from her? A. I never did leave her. She went off several times.

Q. How long after you were married? A. Only about a month and a half.

Q. How long did she stay away that time? A. Stayed away about four days.

Q. How long was it before the next time she left you?
A. I couldn't tell you.

Q. What is the longest period you were separated? A. 6 months. She left me once and went out to her brother's him on Pawpaw creek, left in July and came back in December.

Q. Wasn't this separation the first time on account of not having a divorce? A. Col. Bell said she never got a divorce and after he said she had and we went and married. Afterwards she said she had a divorce. It might be when she was away at this time--she said she hired a man by the name of Elliot to get the divorce in Cooweescoowee. Mr. Daniels got this decree and sent it to you. I never seen it.

Examination by Mr. Hastings.

Q. You didn't get any Cherokee marriage license the second time you married her? A. Yes, sir.

Q. I will say now you ought to send and get a copy of that. Your right to enroll depends on your second marriage. The proof already in here is that you married five years before her separation from [illegible].

A. I never did see this old [illegible], Mr. Hastings; I don't know anything about that. [illegible] citizens of the Cherokee nation.

Q. I don't know anything about it.

BY THE COMMISSION:

The applicant will be given 15 days from date hereof in which to furnish the Commission with either the original or a certified copy of the license authorizing his marriage in accordance with the Cherokee laws to his wife Mary Elizabeth Hallum in 1893.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 24th day of July, 1902.

Bruce C Jones
Notary Public.

Cher
Supp'l to D 483

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 24, 1902.

In the matter of the application of ADOLPHUS J. HALLUM, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

ADOLPHUS HALLUM, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Adolphus Hallum.

Q How old are you ? A I was 46, I think in September.

Q What is your post office address ? A Vinita.

Q Are you a white man ? A Yes sir.

Q Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage ? A Yes sir, I was until they rejected me, but when they rejected me I never tried to make no fight.

Q You are claiming by intermarriage ? A Yes sir.

Q What is the name of the wife through whom you claim your citizenship ? A Her name was Mary Elizabeth Parrish.

Q Is she living ? A Yes sir.

Q Is she a Cherokee by blood ? A A Shawnee.

Q How long has your wife Mary E., been living in the Cherokee Nation ? A Ever since they emigrated from Kansas, twenty eight or thirty years, I guess.

Q When were you married to her ? A I just can't get that in my head when it was. I don't know just how long its been. Its been twelve or fourteen years.

Q Have you been married to her twice ? A Yes sir.

Q When were you first married to her ? A That's when I am speaking about.

Q Did your wife have a husband before she married you ?
A Yes sir.

Q Was she divorced from him ? A She claimed she was when we was married.

Q Now when were you married to her the second time ?
A In December.

Q Of what year ? A Of 1895, I think.

Q How many years ago ? A I have never been able to get any papers from the Cherokees.

Q How many years ago was it you married your wife the second time ?
A It was the latter part of 1895 or 1896, I can't say which, I haven't got the papers.

Q Why haven't you got the papers ? A I could send and get them, but it would cost me something, and I don't think it would profit me. When they rejected me I went ahead and sold my place and quit it.

Q What was your wife's first husband's name ?
A Thomas Rodman.

Q She was divorced from him in May, 1890 ? A I can't tell you when.

Q Was she diversed before you married her the second time ?
A Yes sir.

Q Are you sure of that ? A Yes sir, that is I have never seen it, but I got a copy once; Daniels furnished this Commission with a copy.

Q Where did you marry your wife the first time ?
A In the Cherokee Nation.

Q Where ? A In Delaware District.

Q You were not married then, were you, under a Cherokee marriage license ? A Yes sir.

Q You were ? A Yes sir.

Q Now did you have a copy of that license ? A The Commission has it.
Q You filed it here did you ? A I think so. My wife had it when you enrolled us, and they taken it.

The Commission: It appears, from an examination of the files in this case, that there was filed with the Commission, on October 1, 1900, a certified copy of xxxxxxxxxxxxxxxxxxx the marriage records of the Cooweescoowee District, showing that a marriage license was issued to A. J. Hallum to marry Miss Mary E. Rodman, on the 30th day of May, 1885, and that the rites of matrimony were solemnized by Rev. John W. Evans, on June 28, 1885; there was also filed with the Commission on the 4th day of March, 1901, a certified copy of a judgment of divorce between one Nin Rodman vs Thomas Rodman, in the Circuit Court of Cooweescoowee District, on the 12th day of May, 1890.

Q Now Mr. Hallum, is the plaintiff in this suit, Nin Rodman, your wife ? A Yes sir, or Mary Elizabeth.
Q She was known as Nin Rodman ? A Yes sir.
Q Now then, I want to ask you if you were re-married to your wife after the 12th day of May, 1890 ? A I think I was married before that.
Q You were married twice to her ? A Yes sir.
Q Was your second marriage after 1890, didn't you say it was in 1895 ? A I think it was.
Q How long was it after your first marriage; about how many years ? Ten years ? A It might have been, and it might have been longer.
Q Who was present at your second marriage in 1895 ?
A George Ann Workman.
Q Who else ? A Floyd Hallum.
Q Anybody else ? A Yes sir there was another girl there.
Q You don't know her name ? A No sir.
Q Can you get these two witnesses you have named to come before the Commission to testify as to that marriage ? A I guess I can.

The Commission: You will be required to do that.

Q Can you remember the name of the minister who performed the second marriage ? A I think it was King.
Q Where ? A Vinita.
Q Did you take out a Cherokee marriage license to get married the second time ? A Yes sir.
Q Who issued the license ? A Mr. La Hay, the clerk.
Q Of Cooweescoowee District ? A Yes sir.
Q What is his full name ? A Joe La Hay.

The Commission: Then, it will be necessary, also, Mr. Hallum, to get Mr. Joe La Hay to testify as to the fact of his issuing a marriage license.

Q Can you get him to testify ? A Yes sir.
Q Now you say your wife is living ? A Yes sir.
Q Have you been living together ever since you married her the first time ? A Yes sir. We have separated a time or two, I went on with the crops, and she would go down on Grand River and stay with her parents.
Q How long was she down there ? A Six months was the longest time.
Q Was there any trouble ? A No sir.

Q You were willing that she should go down there ?
A Oh yes sir.
Q You didn't consider it a separation in any sense ? A No sir.
Q Have you made your home in the Cherokee Nation ever since you were married in 1886 ? A Yes sir.
Q Are you and your wife living together now ? A Yes sir.
Q Were you living together on the first day of last September ?
A Yes sir.
Q Never lived anywhere else ? A No sir.
Q Was Thomas Rodman the only husband your wife ever had before she married you ? A Yes sir.
Q Were you ever married before ? A No sir.
Q She is your first wife ? A Yes sir.

Examined by J. C. Starr:

Q When were you married to her first ? A Well, I can't tell just when it was.
Q Who married you ? A A man named Evans.
Q Where were you married ? A In Delaware District, about ten or twelve miles from Vinita south-west.
Q Where did you get your license ? A Got them in Cooweescoowee district.
Q Who issued the license to you the first time ?
A I don't know his name ?
Q Clerk of Cooweescoowee District ? A Yes sir.
Q How long after you were married the first time until you were married the second time ? A I don't know sir.
Q Don't have any idea ? A No sir, I don't. Now if you will just let me explain a little, my wife has been sick so much, I have had so much trouble, such things escape my mind, and I can't remember anything. My wife has been an awful sick woman; she has had epileptic fits. I can't remember dates at all.
Q Did you ever make application to the Executive Department of the Cherokee Nation for a certified copy of your second marriage license ? A No sir, I didn't.
Q What became of your license for the second marriage ?
A I think they are at my brother's. That man I give as a witness just now, I think they are at his place, I aint sure.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this December 10, 1902.

B C Jones
Notary Public.

IN THE MATTER OF THE APPLICATION OF

Adolphus J. Hallum

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Oct 1 1900.

B. Memo. of application Oct 1 1900.

C. Certified copy of marriage record.

D. Decree in divorce.

E Notice of final consideration, 2-28-1902

[illegible]

F Order closing testimony, Feb. 28, 1902

See Cherokee Dckt 3862

OCT 1[illegible] 1907

Rejected.

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D484

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 8 1900
ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., [illegible] 1st, 1900.

IN THE MATTER OF THE APPLICATION OF Kate Craig and children for enrollment as citizens of the Cherokee Nation, and she being sworn and examined by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Kate Craig.
Q What is your age? A Forty six.
Q What is your Postoffice? A Welch.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A No sir; by marriage.
Q What is your husband's name? A Franklin Wallace Craig.
Q Is he a Cherokee citizen by blood? A Yes sir.
Q How old is he? A He is forty, but he is dead.
Q He is not living? A No sir.
Q Any children? A Yes sir; I have five children; three married.
Q You want to enroll two them? A Yes sir; one boy and one girl.
Q What are their names? A Elgy Cleveland Craig.
Q How old is he? A He is sixteen, or will be this November.
Q What is the name of the next one? A Laura Craig.
Q How old is Laura? A She is ten.
Q Are these children living and living with you? A Yes sir.
Q When were you married to Mr. Craig? A November 8th, 1876.
Q Your name should be on the roll of 1880? A We were admitted in December after the census were taken.
Q Were you married after September, 1880? A I was married in 1876.
Q Never married afterwards? A No sir.

The applicant presents a certificate of admission to citizenship, issued by the Commission on citizenship, on the 15th day of September, 1880, signed by Roach Young, President, William Harnage and George W. Mayes, Commissioners; attested by J. B. Mayes, clerk; and a certificate with the seal of the Cherokee Nat- attached, signed by S. H. Mayes, that the certificate is a true copy of the record.

Q In this certificate, I find the name of Frank W. Craig, as having been admitted to citizenship on the 15th day of September, 1880, Case No. 8, of the said Citizenship Committee.

(1896 Roll, Page 299, #241, Kate Craig, Cooweescoowee D'st)
(1896 Roll, Page 153, #1037, Elgy Craig (C), Cooweescoowee D'st)
(1896 Roll, Page 153, #1038, Laura Craig, Cooweescoowee D'st)

Q Are these children living and living with you? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Twenty three years.
Q Continuously? A Yes sir.

The name of Kate Craig appears upon the census roll of 1896, as well as her children, Elgy and Laura Craig. The name of the husband of Kate Craig, Frank W. Craig, is found upon the census roll of 1896, and satisfactory proof of his admission to citizenship is filed, being more particularly described in the testimony, in which it appears that he was admitted to citizenship in 1880: Applicant avers that she was married to the said Franklin W. Craig in 1876, before his admission: She also avers that she never remarried according to Cherokee law. Consequently, final judgment as to the enrollment of the said Kate Craig will be suspended and her name will be placed on a Doubtful card.
Her children, Elgy C. and Laura Craig, having been born after the admission of their father, will be duly listed for enrollment as Cherokees by blood.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the

[illegible] in [illegible]
[illegible] pt of [illegible].

R. R. [illegible]

Subscribed and sworn to before me
[illegible] day of [illegible], [illegible].

[illegible]

D484

FILED
MAR 5 1902

D. 484.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 28, 1902.

In the matter of the application of Kate Craig for the enrollment of herself as a citizen of the Cherokee Nation.

Applicant represented by W. P. Thompson, Vinita, I.T.
Cherokee Nation represented by W. W. Hastings.

The applicant was notified by registered letter February 12, 1902, that her application to be enrolled as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902. Receipt has been acknowledged of the Commission's letter and the applicant this day, to wit the 28th day of February, 1902, appears in person and by her attorney, W. P. Thompson.

KATE CRAIG, the applicant, being first duly sworn, testified as follows:

MR. THOMPSON: What is your name? A Kate Craig.
Q What is your postoffice? A Welch.
Q What is your age? A My age is 48 I believe.
Q Your notice states that you are required to supply the Commission with a certificate of readmission of Frank W. Craig? Have you that certificate? A Yes, sir.
Q I desire to present a certificate of admission of the children of Frank W. Craig, in which certificate of the decree of the Commission Court it is shown that the same Commission at the same term had decided the case in favor of Frank W. Craig and had readmitted him.
COMMISSION: The document will be duly filed.
MR. HASTINGS: Objected to by the representatives of the Cherokee Nation present for the reason that this is not the best testimony, the best testimony being the judgment admitting Frank Craig himself.
COMMISSION: The following entry appears upon the docket of the Cherokee Commission on Citizenship for the year 1880, on page 8:

"Commission on Citizenship,
Tahlequah, January 16, 1886.

Case No. 8,
Safronia A. Bivins, Louisa I. Coats,
and Frank W. Craig,
vs.
The Cherokee Nation.
(Petition for citizenship in the Cherokee Nation.)

Continued until the September, 1880, by the Cherokee Nation. Set on the 10th September. Continued until 13 inst.

It is proven to the satisfaction of the Commission that the above named claimants to citizenship are the relatives and the descendants of the David Harlan family—who taken a reservation on the neutral land under the treaty of 1866 between the Cherokee Nation and the United States, well-known Cherokees!—and that said claimants did not take a reservation on said land.

Therefore the Commission admit the above named claimants to all the rights and franchise of Cherokee citizenship. September 15, 1880.

Roach Young, President.
Wm. Harnage, and
G. W. Harnage, Assistant Commissioners.
J. B. Mayes, Clerk."

The certificate above cited has been withdrawn by the attorney for the applicant and the original record introduced as above shown.

MR. HASTINGS: When were you married to Frank Craig? A In November, 7th, 1876 I believe.

Q Were you ever married before? A Yes, sir, I was married before.
Q What was your first husband's name? A Marker was his name.
Q Was you married but once before? A That is all.
Q Marker dead when you married Craig? A Yes, sir.
Q Was Craig ever married before he married you? A No, sir.
Q This was his first marriage? A Yes, sir.
Q Where were you married? A Near Columbus, Kansas.

COMMISSION: What did you say is your name at the present time?

A Kate Craig is the way I sign it.
Q You submit the case, Mr. Thompson?

MR. THOMPSON: Yes, sir.

COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit the case. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record. The attorney for the applicant requests and will be granted ten days in which to file a brief, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

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Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 1st day of March, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes/
Muskogee, Indian Territory April 12 1902.

In the matter of the application of Kate Craig, for enrollment of the citizen of ~~the~~ Cherokee Nation by intermarriage.

No. Cherokee D 484.

Brief of the Cherokee Nation

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The question involved in this case is a legal one. The applicant is a white woman, and was married to her husband while he was a citizen and resident of the state, and not a citizen of the Cherokee Nation/ but subsequent to that time her husband was readmitted to citizenship in the Cherokee Nation, as a citizen by blood, but her name was not embraced in that decision, and the question involved is: Does the admission of the husband carry with it the admission of the applicant? The Cherokee Nation contends that it was necessary for the applicant, in order now to be listed for enrollment as a citizen of the Cherokee Nation by intermarriage, to have married her husband subsequent to his readmission to citizenship in the Cherokee Nation. In other words he must have been a citizen of the Cherokee Nation at the time of the marriage in order to have conferred rights of citizenship by intermarriage upon his wife, the applicant.

Section 659, Article 16, Compiled Laws of the Cherokee Nation, 1892, providing for the intermarriage of white men and foreigners, containg the following: "Any white man or citizen of the United States or of any foreign state or government desiring to marry a Cherokee, Delaware or Shawnee woman, a citizen of the Nation, shall be shall be and is hereby required to obtain a license etc." You will observe that it was not only necessary that a woman be a Cherokee, Delaware or Shawnee, but she must at the same time have been a "CITIZEN OF THE CHEROKEE NATION", and it makes no difference how much Cherokee blood the woman had, if she were a full blood, residing in any of the states, and not recognized by the Cherokee authorities as a citizen of the Cherokee Nation at the time of her marriage, even if the husband had obtained the requisite Cherokee marriage license, it would not have entitled her to enrollment, because he was not a "citizen of the Cherokee Nation" at the time of her marriage. It is difficult indeed to see how citizenship could be carried through the marriage of one person to another, when at the time of the marriage neither had any rights of citizenship to confer.

Section 5 Amendments to ~~the Cherokee Constitution~~ Article 3 of the Cherokee Constitution, page 33, (Found in Compiled Laws of 1892) in defining who are citizens of the Cherokee Nation states: "All native born Cherokees, all Indians and whites legally members of the Nation by adoption, and all Freedmen, x x x x x shall be taken and deemed to be citizens of the Cherokee Nation". You will observe that among the intermarried class enumerated as being citizens of the Cherokee Nation are "whites legally members of the Nation by adoption". If the applicantwas married to her husband prior to his readmission, when he was not a citizen of the Cherokee Nation, and she, at the time of the marriage, by this marriage acquired no rights of citizenship in the Cherokee Nation, and she did not marry him subsequent to his readmission, and was not admitted by a court or council, the Cherokee Nation contends that she was never legally adopted. But it is contended first, that the Supreme Court of the Cherokee Nation in 1871, in the case of the Cherokee Nation vs Nancy Rogers, has decided this question differently; that the court held in that case that the marriage of the white woman to the Cherokee Indian conferred upon the white woman the same rights as enjoyed by white men who had complied with the Cherokee law regulating intermarriage with white men and Cherokee women. For the purpose of easy reference this entire decision is inserted here, which reads as follows:

"Journal Continued"

Cherokee Nation

vs

Nancy Rogers.

White woman with others claiming Cherokee rights by marriage.

The court feel that this is a special and important case, and after careful and due consideration, can not hesitate in sustaining claimants in their positions, believing:

1st. That common custom of the Cherokees since their first intercourse with white men, made common law, upon which most of our statue laws have been founded. White women have been taken as wives by Cherokees since time immemorial, and their rights as Cherokees have never been disputed apart from that of her husband.

2nd. In all treaties with the United States, white women married with Cherokee men have ever been classed as a part of our people.

3rd. As the Cherokee man is the acknowledged head of the family, and white women as wives become subject to him as such, and as no special law to regulate the status of white women has been made, now does the court think it necessary, therefore decide: That Nancy Rogers, and all other white women married to Cherokee men, or the widows of such and who have not forfeited their gights under any other law, are entitled to such rights and privileges as white men, who have been married under the laws regulating intermarriage between white men, citizens of the ~~M~~ U. S., and Cherokee women."

"I, B. W. Alberty, Assistnt Executive Secretary of the Cherokee Nation, do hereby certify that the foregoing is a true copy taken from the record of the Supreme Court of the Cherokee Nation, acting as a special court on citizenship, made in the year 1871, now filed in this office, and in my custody.

Given under my hand and the seal of the Cherokee Nation this the 9th day of October, 1900. B. W. Alberty, Assistant Executive Secretary Cherokee Nation."

Attention is calledto the third paragraph of the above decision, with which the representative of the Cherokee Nation agrees, but you will observe that the decision only goes to the question as to whether white women who marry Cherokee men without first having obtained a marriage license, were entitled to the same rights and privileges as white men, but it does not decide the question in her favor if she had married her husband prior to his readmission to citizenship in the Cherokee Nation, and at the time when he was not a recognized citizen of the Cherokee Nation. The question involved in the Rogers case was whether or not she could acquire any rights by her marriage to a Cherokee Indian citizen, and the court determined that question in her favor.

We submit that in the case of Malissa A. Dawson vs W. A. Dawson that perhaps the precise question was raised, and for easy reference to this decision we quote it as follows:

"November 10, 1886.

Case of Melissa Dawson vs W. A. Dawson. For divorce and alimony $2000.00. Delaware District.

Motion made in the lower court to dismiss on the ground that plaintiff is a white woman and not entitled to sue, not being a citizen of the Cherokee Nation.

Opinion.

"In the matter of the motion made by defendant to dismiss case in the Circuit Court of Delaware District upon the ground that the plaintiff is a white woman, and citizen of the United States, and never adopted by any act of the National Council of the Cherokee Nation, or any ~~[illegible]~~ of the courts of the same, and that said Melissa

Dawson having been born, raised and married beyond and out of the jurisdiction of the Cherokee Nation, can not be heard in its courts. The court finds from its records that the Supreme Court sitting as a court of commission to try and decide the cases of persons of doubtful citizenship did in the year 1871, in the case of the Cherokee Nation vs Nancy Rogers, a white woman, who had married a Cherokee, define the status of a white woman who had married Cherokee men. (See Decision Supreme Court 1871). Fifteen years have elapsed since the date of this decision, and the National Council has not by legislation changed that status: the court sees no good reason for doing so now. The motion is overruled. Adj'd Nov. 12, 1886."

"I, B. W. Alberty, Assistant Executive Secretary of the Cherokee Nation, do hereby certify that the ~~ab~~ fåregoing is a true copy taken from the records of the Supreme Court of the Cherokee Nation, now by act of the National Council placedin the Executive office of said Nation, and that I am custodian of said records."

"Given by me in Executive office at Tahlequah, Cherokee Nation, onthis the 27th day of July, 1900.

B. W. Alberty, Assistant Executive Secretary, Cherokee Nation."

Your attention is invited to the fact that the Cherokee Nation was not a party to this case, and was in no wise represented, and it was perhaps not fully considered by the court, and was clearly not fully presented. You will observe from the opinion itself that it was not a well considered case, because of the erroneous statement made in the opinion that the point involved in the case was the same as that presented in the Rogers case. Whereas, that question does not seem to have been considered in the Rogers case at all, but only the question as to what rights a white woman would have by her marriage to a Cherokee Indian Citizen. We submit that a court that was not able to see the distinction between these two cases should not too highly commend itself to this Commission as a precedent.

We say that the Rogers case does not decide this point in favor of the woman; we contend that the Lawson case was not a well considered case; that it misquotes the Rogers case, and is in the teeth of the Cherokee Law.

It is argued in parallel cases that aside from the Cherokee lawm and aside from the Cherokee decisions, that it would necessarily follow that the admission of the husband admist the wife. Lets see if this be true in case the marriage was not consummated under Cherokee law. Suppose a white woman married a Cherokee Indian in 1896, or any time subsequent to December 16, 1895, what became of her citizenship then? Is she a citizen of the Cherokee Nation? The Commission says that she is not, yet her husband is a recognized citizen of the Cherokee Nation, undisputed and enrolled as such, and although a proper marriage certificate may have been presented. Neither does the citizenship of the wife follow that of her Creek husband in the Creek Nation. There are hundreds of white women who have legally married Creek men, but who have never been enrolled, or even applied to be enrolled, as citizens of the Creek Nation. Again in Freedmen cases the citizenship of the wife does not follow that of her husband. There are a great number of Freedmen citizens, whose names appear upon the roll of 1880, whose wives are not Freedmen citizens of the Cherokee Nation, and who are not entitled to be enrolled, because of the citizenship of their husbands. So far as I know this is not true of any Indian tribe, and in no case except where it is specifically authorized by law of the tribe does the citizenship of the wife follow that of the husband. This of itself, seems to us, refutes the argument that the citizenship of the wife must of necessity follow the citizenship of the husband.

We believe that we have shown that the law requires that the marriage must be not only to a Cherokee, but a citizen of the Cherokee Nation at the time of the marriages; that the Rogers case did not decide that a white woman was entitled to citizenship in the Cherokee Nation if she married her husband prior to his readmission to citizenship; that when the Dawson case was dedided the Cherokee Nation was not represented; that the decision itself shows that it was not a well considered case, inasmuch as it contains erroneous statements.

Your attention is also invited to numerous instances where white men prior to the admission of their Cherokee wives had married them in the states, who were required to marry their wives subsequent to their readmission to citizenship in the Cherokee Nation. We urgently contend that it is in violation of Cherokee law to admit the applicant to citizenship in the Cherokee Nation; that when she married her husband she married a white man to all intents and purposes; that if she had continued to live in the state she would never had been a recognized citizen of the Cherokee Nation; and that the admission of her husband did not of itself, without her name being embraced in the decision, admit her to citizenship in the Cherokee Nation. And in this contention we are sustained by Section 21 of the Curtis Bill, which contains the following significant language in directing the Commission who should be enrolled as citizens of the Cherokee Nation: "All persons who have been enrolled by the tribal authorities, who have heretofore made permanent settlement in the Cherokee Nation, whose parents by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted". There is the authority for the enrollment by this Commission of a minor whose name is not embraced in the decision of the Commission on citizenship where the parents were admitted, but what authority has this Commission to enroll the white wife of a husband who was readmitted? Again that same section provides that the Commission shall enroll "such intermarried white persons as may be entitled to citizenship in the Cherokee Nation under the Cherokee laws". Has any such law been presented which shows that a white woman, who married in the state, not under Cherokee law, not within the limits of the Cherokee Nation, when her husband was a citizen of the state, is entitled to be enlisted for enrollment? We think not. While we contend that the marriage of the white woman was a legal marriage in the state for the purpose of legitimatizing her children, yet it did not confer Cherokee citizenship by intermarriage upon the woman, because they were not married within the Cherokee Nation, and after the husband became a citizen of the Cherokee Nation.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Cher D 484

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 2, 1902.

In the matter of the application of KATE CRAIG, for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation:

KATE CRAIG, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Kate they call me, but my real name is Katherine.
Q You made your application before as Kate Craig ? A Yes sir.
Q You want to be enrolled as Kate Craig ? A Yes sir. I always go by the name of Kate.
Q What is your age at this time ? A About 48, I guess.
Q What is your post office address ? A Welch.
Q Are you the same Kate Craig who made application to this Commission for enrollment as an intermarried citizen of the Cherokee Nation on October 1, 1900 ? A Yes sir.
Q What is your husband's name ? A Franklin Wallace Craig. He signed his name F. W.
Q What was your maiden name Mrs. Craig ?
A My maiden name--I was married once before I married him; my maiden name was Tetrick.
Q Your mother's name was Lorinda Tetrick ? A Yes sir.
Q Is your husband a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q When were you and he married Mrs. Craig ?
A Married in 1876.
Q Where ? A In Columbus, Kansas.
Q Had your husband ever been married prior to his marriage to you?
A No sir.
Q You were his first wife ? A Yes sir.
Q Had you been married prior to your marriage to him ?
A Yes sir.
Q Was your former husband living or dead when you married Mr. Craig ? A Dead.
Q So Mr. Craig is your second husband ? A Yes sir.
Q Have you and Mr. Craig lived together continuously as husband and wife ever since your marriage up to the present time ?
A Yes sir, up until his death.
Q When did he die ? A He died nine years ago, 23rd of this February coming.
Q You and he were never separated during his life-time ?
A No sir.
Q Have you ever married since his death ? A No sir.
Q You were still single on the first day of September, 1902 ?
A Yes sir.
Q Where have you lived since Mr. Craig's death ?
A Lived within three miles of Welch, Cherokee Nation.
Q All the time since his death ?
A No sir, I never have been out.
Q You were married to Mr. Craig in Kansas ? A Yes sir.
Q How long did you live there ?
A We came right to the Cherokee Nation.
Q Have you lived in the Cherokee Nation ever since then ?
A Yes sir.
Q Do you know how long your husband lived in the Cherokee Nation before his death ?
A His brother is here, he can tell.
Q Did he live in the Cherokee Nation from the time you were married up to his death ? A Yes sir. And before that he lived here in the Cherokee Nation. I have lived here ever since we were married; he lived here before, of course.

D 484 --2

[illegible] Bagwell, on oath states that, as stenographer to the Commission [illegible], he personally recorded the testimony and proceedings had at the above entitled [illegible], and that the foregoing is an accurate transcript of his stenographic notes thereof.

C. Bagwell

Subscribed and sworn to before me this October 11, 1902.

B. A. Jones
Notary Public.

Cherokee D-484.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Kate Craig for enrollment as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

—oOo—

The record in this case shows that on October 1, 1900, Kate Craig appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of herself as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 28, 1902, and again on October 2, 1902. The other parties to the application are differently classified, and are not embraced in this decision.

The evidence shows that Kate Craig was lawfully married on November 8, 1876 to Frank V. Craig, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on September 15, 1880. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers, and Melissa Dawson vs. F. A. Dawson held that a white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship. The said Kate Craig is identified on the Cherokee Census roll of 1896.

The evidence further shows that Kate Craig lived with her said husband in the Cherokee Nation from her marriage in 1876 up to and including his death, which occurred on February 23, 1884; since which time she has continued to reside in the Cherokee Nation, and had not remarried up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Kate Craig should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby.
Acting Chairman.

(Signed) T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

D484

In the matter
of the application
of Mrs Katie Gray
for enrollment
as a citizen of
the Cherokee Nation

Brief of Applicant

Wm. P. Thompson
Atty for Applicant

a

Before the Commission to the Five Civilized Tribes.

In the matter of the Application (Brief of Applicant.
of Kate Craig to citizenship in (
the Cherokee Nation. (

Statement of Facts.

:-:-::-:-:-:-:-:-:-:-:-:-:-

The facts in this case, briefly stated, show that applicant, a white woman, was married to Frank Craig, a Cherokee Indian, November 7. 1876, near Columbus, Kansas; That on September 15th, 1880, the Cherokee Commission admitted Frank Craig to full citizenship in the Cherokee Nation; that applicant has been on the rolls of the Cherokee Nation ever since said date and is on the rolls of 1896 and has resided here continuously since said date.

Argument.

The citizenship of the husband is the citizenship of the wife. He establishes the domicile and whatever form of citizenship he takes and assumes it fixes the status of his wife and minor children. The well established rule of law in the United States is that when a foreigner takes the oath of allegiance to the United States Government and renounces allegiance to his former governemnt, it fixes the status of his wife and makes her also a citizen of the United States and in those states where women are allowed to vote, it vests ~~with~~ her with the right to vote and clothes her with all the protection of a United States citizen. When all the requirements of the law have been complied with by the husband, there is nothing required of the wife, but she is immediately clothed with citizenship when her husband is made a citizen.

Under the Cherokee law a Cherokee man in marrying a white woman vested her with citizenship by virtue of the marriage. A white man marrying a Cherokee woman was required to get a petition signed by ten citizens by blood, get a license from the District Clerk and take the oath of allegiance Hence the rule is different in the case of white men and white women, no formalities, oath, license nor petition was required of applicant in this case. She was the lawful wife of Frank Craig and when he was admitted to citizenship the applicant's citizenship was that of her husband's from that time forward without any further formalities, there being no further requirement of law for her to comply with. This view of the law was taken by the Supreme Court of the Cherokee Nation in the case of Nancy Rogers and Melissa A. Dawson vs. J. A. Dawson, certified copies of which are filed with your commission in the testimony, in the case In the matter of the application of Melissa A. Dawson for enrollment as a citizen of the Cherokee Nation. To which I refer the Commission, as the decision is not obtainable at my office here.

8787

The Cherokee authorities so recognized her, as is shown by the Rolls of 1896, as her name appears on said roll and I submit that she is properly on this roll. Therefore I respectfully submit that she should be enrolled under section 21 of the Curtis Act of June 28th, 1898.

Wm. P. Thompson

Attorney for Applicant.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D-484.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation.
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Kate Craig for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-232.

E MATTER OF THE APPLICATION OF

Kate Zenaia

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

R 1072

A. Original testimony Oct 1 1900
B Memo. of application. Oct 1 1900
C. Marriage license & certf.
D Notice of final consideration, 2-28-1902
E Receipt for testimony

Copy of testimony used [illegible]
[illegible]
[illegible]

F Supplemental testimony and order closing testimony, Feb. 28, 1902.

See Cherokee Jacket 386

G Brief for applicant

Cancelled and transferred to Cherokee 10053

Cher D 485

Cher D 485

D465

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1900.

In the matter of the application of Norman B. Shelton for enrollment as a Cherokee by blood; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Norman B. Shelton.
Q How old are you? A 42.
Q What is your post office? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Just myself.
Q Do you apply as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A About 15 or 16 years.
Q Were you admitted by the Cherokee Commission? A Yes, sir.
Q Let me see your certificate of admission? A I haven't got it with me, I was admitted in 1879.
Q You didn.t come here till 15 years ago? A About 15 or 16 years ago.
Q You are not on the roll of 1880? A Yes, sir, I was put on the roll of 1880, but I didnt come right away, my mother and sister and brothers came, but I didn't come till sometime afterwards.
Q You were not here when the roll of 1880 was made? A No, sir, we had property in Texas, and I stayed to attend to that.
Q So that after your enrollment in 1880 you stayed out of the Cherokee Nation five years? A Yes, sir, four or five years.
Q During that four of five years did you have any property here?
A Yes, sir, I have a farm ten miles south of here.
Q Between 1880 and 1885 did you have that farm? A I started my farm about 1884 or 1885.
Q Was that about the time you came here? A Just about a year before.
Q Did you ever come in the Cherokee Nation between 1880 and 1884 or 1885? A It was 1884 or 1885 when I first came here.
Q Never was in the Cherokee Nation before that? A No, sir, my mother came in from Texas and I stayed there to attend to the property there.
Q You were 22 years of age when you were enrolled in 1880? A Yes, I think I was.
Q Give me the name of your father? A Harvey Shelton.
Q He dead or alive? A He is dead.
Q How long has he been dead? A He died about a year after the war.
Q Your mother's name? A A. E. Shelton.
Q How long has she been dead? A She is living, she was enrolled the past week.
(Norman B. Shelton on 1880 roll, page 308, No. 2838, Noman Shelton, Delaware district; on 1896 roll, page 684, No. 1465, Norman B. Shelton, Flint district.)
Q Were you in Flint in 1896? A In 1896, yes, sir.
Q You have lived in the Cherokee Nation steadily ever since you first came? A I had to go back to Texas, I had property there and I would go back and stay a month and come back here again; I never stayed over two years in Texas.
Q Ever vote in Texas after you came here? A No, sir.
Q Ever vote when you went back there? A No, sir, I don't remember it if I did, I don't think I voted anywhere except here.

The applicant is identified on the rolls of 1880 and 1896 as a native Cherokee. He states that he was admitted to Cherokee citizenship in 1879, and that he was put on the roll while absent from the Cherokee Nation; that he never entered the Cherokee Nation until 1884 or 1885, making his home previous thereto in the State of Texas;

Norman B. Shelton - 2.

that he has lived continuously in the Cherokee Nation, or practically so, for the last [illegible] years. He thinks he has never voted in the State of Texas during that period when he has made occasional visits there on business.

In order to consider whether the applicant, under all the circumstances in his case, forfeited the status that he acquired by his enrollment in 1880, and should be readmitted in order for enrollment at this time, his application will fo the present be placed upon a doubtful card for future consideration, and the final decision will be made known to him at his post office address.

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Bruce C. Jones, being duly sworn, sy that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 3rd of October, 1900.

Commissioner.

Supl.-C.D.#485.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T.? February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of NORMAN B. SHELTON as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 12, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902, and that he could on said day appear either n person or by attorney and an opportunity would be given him to introduce any further testimony affecting his applicantation. He has this day, to-wit: the 28th day of February, 1902, been called three times and failing to respond either in person or by attorney, it is directed that the case be closed, and that the same be reported to the Commission for a final decision based upon the evidence now of record.

Mr. W. W. Hastings, Cherokee Representative, present.

J.O.R.

Commissioner.

Cherokee D 488

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DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Norman B. Shelton for enrollment as a citizen by blood of the Cherokee Nation.

DECISION.

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The record in this case shows that on October 1, 1900, Norman B. Shelton appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for his enrollment as a citizen by blood of the Cherokee Nation.

The evidence shows that Norman B. Shelton removed to and located in the Cherokee Nation in 1884 or 1885, and has resided there ever since. He is identified on the authenticated tribal roll of 1880, and the Cherokee Census roll of 1896, and upon examination it is found that his name appears also on the Strip payment roll of 1894.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898 (30 Stats., 495):

It is therefore the opinion of the Commission that Norman B. Shelton is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 485.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Norman B. Shelton for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 120.

485

IN THE MATTER OF THE APPLICATION OF

Norman B. Shelton

FOR ENROLLMENT AS

CHEROKEE CITIZENS

Question of Residence

IN THE MATTER OF THE APPLICATION OF

Norman B. Shelton

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony Oct 1 1900

B. Memo of application, Oct 1 1900

Notice of final consideration, 2-28-1902

D Order closing testimony Feb. 28, 1902

Copy [illegible]

Transferred [illegible] #

[illegible]

Cher D 486

Cher D 486

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900
Acting Chairman

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 1, 1900.

In the matter of the application of Stand G. Woodall for enrollment as a citizen of the Cherokee nation, said Woodall being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A Stand G. Woodall.
Q How old are you? A 47.
Q What is your postoffice? A Klaus.
Q What district do you live in? A Delaware.
Q Whom do you want to have put on the roll? A Myself.
Q Are you a Cherokee by blood? A yes.
Q How long have you lived in the Cherokee Nation? A I lived in California nine years.
Q When did you come to the Cherokee Nation? A Just after the war.
Q Are you on the roll of '80? A yes.
Q '96? A yes.
Q Have you lived here ever since you came after the war? A Yes.
Q Right straight along? A Yes.
Q What is your father's name? A George.
Q Dead or alive? A Dead.
Q Been dead more than 20 years? A No sir, not that much.
Q What is your mother's name? A Ellen.
Q Is she dead or alive? A Dead.
Q She has been dead more than 20 years? A I guess she has.

Applicant on '96 roll, page 552, number 3389.

The applicant is identified on the roll of '96 and states that he has been in the Cherokee nation ever since the war. He is not identified on the roll of '80. For his further identification he will be listed now upon a doubtful card and final decision of the Commission will be communicated to him at his postoffice address.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 1st day of October, 1900.

C R Breckinridge
Commissioner.

Supl.-C.D.#486.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of STAND G. WOODALL as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 12, 1902, that his application for the enrollment of himself as a Cherokee citizen would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902, and that he could on said day appear either in person or by attorney and an opportunity would be given him to introduce any further testimony affecting his applicant. He has this day, to-wit: the 28th day of February, 1902, been called three times and failing to respond either in person or by attorney, it is directed that the case be closed, and that the same be reported to the Commission for final decision based upon the evidence now of record.

Mr. W. W. Hastings, Cherokee Representative, present.

J.O.R.

Commissioner.

Cherokee D [illegible]

J.H.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Stan G. Woodall for the enrollment of himself as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on October 1, 1900, Stan G. Woodall appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation.

It appears from an affidavit on file in the office of this Commission that Stan G. Woodall died on March 19, 1901.

It is, therefore, ordered that the application for the enrollment of Stan G. Woodall as a citizen by blood of the Cherokee Nation, be dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby
Acting Chairman.

T. B. Needles
Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this NOV 20 1902

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COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 486.

Muskogee, Indian Territory, November 20, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of an order of the Commission to the Five Civilized Tribes, dated November 20, 1902, dismissing the application of Stan G. Woodall for the enrollment of himself as a citizen by blood of the Cherokee Nation, who died on March 19, 1901.

Respectfully,

Acting Chairman.

Enclosure E. No. 17.

IN THE MATTER OF THE APPLICATION OF

Stant G. Woodall Et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Certificate of Citizenship

IN THE MATTER OF THE APPLICATION OF

estate

David G. Woodall

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Oct 1 1900.

B. Memo. of application Oct 1 1900.

C. Notice of final consideration, 2-28-'02

D. Order closing testimony Feb 28, 1902

Copy of testimony [illegible]

[illegible]

[illegible]

E. Letter from [illegible] rel to death of applicant.

Transferred to Cher No. R 736

Cher D 487

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DH87

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 3 1900
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 1, 1900.

In the matter of the application of Ruth B. Lynch for the enrollment of herself and seven children as citizens of the Cherokee Nation, said Lynch being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A Ruth B. Lynch.
Q How old are you? A 45.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Who is it now you want to have put on the roll? A Myself and seven children.
Q Do you apply for yourself as a Cherokee by blood? A Yes.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What was your father's name? A Johnson Downing.
Q Dead or alive? A Alive.
Q What is your mother,s name? A Mary Smith.
Q Dead or alive ? A Dead.
Q How long since she died? A 11 years.
Q When were you married? A '78.
Q Been married more than once? A Yes, twice.
Q Married to Lynch in '78? A No sir, my first husband was a Buffington.
Q When were you married to Lynch? A '84.
Q What is his full name? A Anderson Lynch.
Q Married him in '84? A Yes.
Q Is he living now? A Yes.
Q White man or Cherokee? A He is a freedman.
Q You make no application for him? A No sir.
Q You were married before that? A Yes.
Q Been married only twice? A That,s all.
Q Who did you marry the first time? A Alex Buffington.
Q When did you marry him? A '78.
Q He is dead? A yes.
Q When did he die? A '83.
Q Cherokee or white man? A Freedman.
Q What are the names of your children? A Lucian Buffington, 19 years old.
On '94 roll, page 422, number 1706, as Lynch.
Q Next? A Alex, 17 years old.
On '94 roll, page 422, number 1707, as Lynch.
Q Next? A John Lynch, 14 years old.
On '94 roll, page 422, number 1708.
Q Next? A Cynthia, 12 years old.
On '94 roll, page 422, number 1709, as Syntha.
Q Next? A Claude, 9 years old.
On '94 roll, page 422, number 1710.
Q Next? A Rose M. 6 years old.
On '94 roll, page 422, number 1711.
Q Next? A Willis, 5 years old.
Applicant on '94 roll, page 422, number 1705, as Ruth Lynch.

The applicant applies for the enrollment of herself and seven children. She claims to be a native of the Cherokee Nation and to have lived in the Cherokee Nation all her life. She claims as a Cherokee by blood. She is not identified on the rolls of '80 or '96. She is doubtfully identified on the roll of '94 under the name of her present husband, and her first two children are identified on the roll of '94 under the name of her present husband. Her four succeeding children are identified on the '94 roll under applicant's present name, the name of her present husband. These children are said to be living now. She and all of the foregoing children will be listed now for enrollment upon a doubtful card, and when the Commission is [illegible] with [illegible] certificate of the birth of the youngest child, [illegible] on the roll of '96, this [illegible] will [illegible] a doubtful card. None of these [illegible] roll of '96.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 2nd day of October, 1900.

Commissioner.

D. 487-

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 13 1904
ACTING CHAIRMAN

SUPPLEMENTAL TESTIMONY.

D. #404.
D. #437.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., FEBRUARY 14th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of WILLIS BATTLES, D.#404, and RUTH LYNCH, D.#437, as citizens of the Cherokee Nation;

RUTH LYNCH, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Ruth Lynch.
Q How old are you? A 48.
Q What is your post office? A Vinita.
Q In what district do y ou live? A Delaware.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know one Emily J. Battles? A Yes, sir.
Q Is she a wife of Willis Battles, Jr.? A Yes, sir.
Q What relationship are you to this Emily Battles? A Half sister.

EXAMINATION BY W. P. THOMPSON, of Vinita, I. T., Attorney for Applicants:

Q You say you are a half sister of Emily J. Battles? A Yes, sir.
Q Do you know where Emily J. Battles was in the year of 1880, at the time the census was t aken in 1880? A She lived in the bend of Russell Creek.
Q In what district? A Delaware district, I think.
Q What Nation? A Cherokee.
Q Delaware district, Cherokee Nation? A Yes, sir.
Did you see her during the time the c ensus was being taken by the census t akers? A Yes, sir.
Q Where? A There at her place where she lived.
Q State the circumstances; did you go to her home? A Yes, sir
Q State the circumstances? A She was sick; she lived right down in the bottom where the creek and river came together and she took the chills and I had my husband to hitch up the wagon and we went up there and got her and she staid with us until she married Battles.
Q How long did she live at your house? A About four years.
Q I will ask you if the census t akers had been around to your house before you went up there and got her? A Yes, sir.
Q You say you are a half sister of Mrs. Battles'? A Yes, sir.
Q By the same mother or same father? A Same mother.
Q The same mother as Emily Battles? A Yes, sir.
Q Are you on the roll of 1880? A I don't think I am; I have got that to prove.
Q Have you ever been before the Commission? A Yes, sir.
Q You do not know whether you are on the roll of 1880 or not?
A No, sir, I don't.
Q You don't know what action was taken in your case? A No, sir; I just went before the Commission and they never asked me anything.
Q By Com'r Breckinridge: Where did you apply? A Vinita.
Q By Mr. Thompson: Was the census taker at your house in 1880?
A He might have been; in that year my name was Buffington.
Q What is your given name? A Ruth.
Q Then your name was Ruth Buffington in 1880? A Yes, sir.

BY COM'R BRECKINRIDGE:

Q You say the census taker was at your house? A Yes, sir.
Q And you give your name in did you? A Yes, sir.

By MR. Thompson:

Q What was your mother's maiden name? A Her maiden name was Mary Ann Mave, at the time it was Mary Ann Smith; she was married twice, this girl's father was Clark, Emily J. Clark was her maiden name.

BY COM'R BRECKINRIDGE:

Q What district were you living in in 1880? A Delaware.

BY MR. THOMPSON:

Q During the time of the taking of the census you went up to get Emily J. Rattles, whose name at that time was Emily J. Clark? A Emily J. Clard.
Q Was she ever married before she married Rattles? A No, sir.

BY COM'R BRECKINRIDGE:
Q Your sister, Emily, did she live with a man named Blackwell?
A Yes, sir, but they were never married.
Q How long did she live with him? A About a year.
Q Was there any children from that marriage that you knew of?
A No, sir.
Q How near was she living to you at the time she was living with t his man, Blackwell? A About 25 miles as near as I can guess at it.
Q Your father died in California didn't he? A No, sir, my father is not dead.
Q Your half sister's father died in ,alifornia? A Yes, si r.
Q Emily's father? A Yes, sir.
Q Was he a Cherokee or white man? A He was a white man.
Q You and your si ter had the same mother? A Yes, sir.
Q And you claim that mother was a Cherokee? A My mother is a Cherokee.

BY W. W. HASTINGS, Cherokee Representative:

Q Did your sister, Emily, ever go to California? A No, sir.
Q Is your sister present here now? A Yes, sir.
Q What is your present name? A Lynch.
Q What is your husband's name? A Anderson Lynch.
Q Colored man? A Yes, sir, we have been parted five years. I life in Vinita, having been living there five years.
Q What was your name in 1880? A Buffington.
Q Who was your husband then? A Alex.
Q Was he a colored man? A Yes, sir, he was part.
Q You did not tell that at Vinita, that your name had been Buffington? A Yes, sir.

BY MR. THOMPSON:

Q Which one were you married to in 1880, Lynch or Buffington?
A Buffington, I married him when I was 22 years old

Tribal rolls of citizens of the Cherokee Nation examined and witness' and her former husband's names found thereon as follows:

1880 Freedmen Roll; page 231, #381, Ruth Buffington, Delaware district, adopted Colored.

1880 Freedmen Roll; page 231, #380, Alex Buffington, Delaware district. (With this Note:) "Alex Buffington same as Gus Buffington"

BY COM'R BRECKINRIDGE:

Q This man Blackwell that your sister lived with, what was he, white man? A No, sir, he was a Mexican.

BY MR. HASTINGS:

Q Has your sister lived in the Cherokee Nation ever since 1880?
A Yes, sir, and before.
Q Why are you so positive that she was here when the rollswere taken? A She was bound to be because she had a home here.
Q You remember when the rolls of 1880 were taken then? A Yes, sir, I know the rolls was taken in 1880.
Q Do you know who took the rolls? A No, sir.
Q You lived right by the man? A Yes, but I can't remember.
Q Is Joe Thompson a neighbor of yours? A Yes, sir.
Q You don't remember whether he took them or not? A No, sir, I don't know.
Q What was your mother,s maiden name? A Nave. Mary Ann Nave.
Q Was she a Cherokee or colored person? A She was a Cherokee; she was a, John Ross and her mother were brothers and sister.

BY MR. THOMPSON:
Q Did she have any other sister? A Had one.
Q Who was she? A Nancy Riley.
Q What is her name now? A Nancy Riley.
Q You say she was a sister of your mother? A Yes, sir.
Q Do you know whether she was a full sister? A She was a twin.
Q Where does Nancy Riley live? A Tahlequah.

MR. THOMPSON:--I desire to cite Sections 688 and 689, page 345, of the compiled laws of the Cherokee Nation for the year 1892.

EMILY J. BATTLES, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name please? A My name is Emily J. Battles.
Q You applied to the Commission for enrollment at Vinita on the 24th of September, did you? A Yes, sir.

BY MR. THOMPSON:

Q This man Blackwell that you lived with; was there any marriage ceremony ever performed between you and Blackwell by any Judge or Clerk of the Cherokee Nation or any ordained Minister? A No, sir, they never was.
Q Was any marriage contract in writing between you two parties signed up by you two in the presents of witnesses? A There never was on top of earth.

Q Did you two ever, in the presents of a Judge, Clerk or Minister officiating or attending witnesses acknowledge each other as husband and wife? A No, sir.

BY COM'R BRECKINRIDGE:

Q You don't remember how long you lived with this man Blackwell?
A I would tell you my friend I could not recollect rightly.
Q You testified in your former evidence that you held each other out to the world as husband and wife; you lived with this man as his wife? A In one sense we was but the people didnot treat us as that and they could not look at it that way.
Q You went by his name? A I guess some people called me by his name.

BY MR. W. W. HASTINGS:

Q You and him agreed to live together as man and wife before you went to doing it? A We might agreed to but never had it in writig
Q You never had any writing or anything to that effect, but you agreed to do it and held each other out to the community as man and wife? A The community did not know anything about it.
Q There was not much community there was there? A No, sir.

Com'r Breckinridge:--Copies of this testimony will be filed with Case D. #404, and also with the case of Ruth Lynch, D.#487, and notes will be made on the cards calling attention to this testimony.

---oooOOOooo ---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 15th day of February, 1901.

Commissioner.

Cher. D 487

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 23 1901
ACTING CHAIRMAN

To be filed with case of Ruth B. Lynch, C.-D.#487.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 10th, 1901.

In the matter of the application of Anderson Lynch for enrollment as a Cherokee Freedman; said Lynch being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name? A Anderson Lynch.

Q You apply for yourself and five children? A Yes, sir.

Q Have you got a wife? A Yes, sir.

Q Do you want to apply for her? A She applied for herself.

Q Is she living with you? A I am staying on the farm on the river and she is staying in town.

Q You had better apply for her? A Well, sir.

Q How old are you? A About 64 years old.

Q What is your post office? A Here at Vinita.

Q In what district do you live? A In Delaware.

Q How long have you lived in the Cherokee Nation?

A I was born and raised here.

Q Lived here all your life? A Yes, sir

Q Were you a slave in the Cherokee Nation before the war?

A Yes, sir.

Q And you were set free by the war? A Yes, sir.

Q To whom did you belong? A Joe Lynch.

Was he a recognized Cherokee citizen? A Yes, sir, never has been disputed.

Q Well, where were you during the war? A I was up in Kansas.

Q Are you on the roll of 1880? A Yes, sir; ought to be, I guess it is there yet.

Q You came back when from Kansas after the war? A In '65.

Q Give me the name of your wife? A Rutha Lynch.

Q Is she a Cherokee, a Freedman? A She is Cherokee.

Q You thing perhaps she is enrolled? A Yes, sir; I think she must be.

Q Well, give me the names of your children, these five children you are talking about? A Johnnie.

Q How old is John? A He is about 15 years old.

Q Now, the next child? A Cynthia.

Q How old is that child? A She is 12 years old.

Q The next child? A Claude.

Q How old is Claude? A I don't know exactly his age; I got it down in the bible.

Q Is he a little younger than Cynthia? A Yes, sir.

Q About ten years old? A Yes, sir.

Q The next one to Caludo? A Nickname is Cute.

Q What is his name? A They always called him Cute and he has got another name.

Q How old is Cute? A About seven.

Q Now, the next child? A He is about five.

Q His name? A His name is Willia.

Q He is about five ai he? A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 280, #1589, Anderson Lynch, Delaware District.

The 1896 Census Roll of Freedmen of the Cherokee Nation examined and applicant's found thereon, page 632, #62, Andison Lynch, Delaware District.

Q How old is your wife, Ruth? A She must be near about 40 years old I guess.

Q Give me the name of her father? A He was a Downing.

Q That is as far as you can remember? A Yes, sir.

Q Is he dead? A I think they called his name Johnson.

Q Give me the name of your wife's mother A She was Mrs. Clark, Mary Clark.

Q Is she dead? A Yes, sir.
Q How many times has your wife been married before she married you? A Only once.
Q To whom was she married then? A Alex Buffington.
Q Was he dead when she married you? A Yes, sir
Q When did you and your wife marry? A I disremember when it was.
Q Well, as near as you can come? A It must have been about 15 years.
Q And she was a Buffington at that time? A Yes, sir
Q Is your child, Joh , the oldest child by this wife?
A Yes, sir, that is the oldest one.
Q Who is Willis Battles? A My wife's brother-in-law.
Q Did you know when your wife's father died? A No, sir; I didn't know he was dead.
Q I thought you told me he was dead? A No, sir, I ain't heard of him, I guess Mr. Bell knows him.
Q Is he understood to have been a Cherokee or white man?
A Cherokee.
Q Your wife's mother is she a Cherokee? A Yes, sir, Cherokee.
Q You say she is dead? A Yes, sir.
Q How long has she been dead? A I could not tell just exactly; must be over 15 years I guess.
Q Was she a Downing at the time she died, or a Clark?
A No, Downing I believe last.
Q She was a Downing then in 1880? A Must have been.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examine and applicant's wife found thereon, page 231, #381, Ruth Buffington, Delaware District.
The 1896 census Roll of Freedmen of the Cherokee Nation examined and applicant's wife and children identified thereon as follows:
Page 632, #63, Ruth Lynch, Delaware District.
Page 532, #66, Johnie Lynch, Delaware District.
Page 632, #67, Cynthia Lynch, Delaware Disriot.
Page 632, #68, Claud Lynch, Delaware District.
Page 632, #69, Cute Lynch, Delaware District.
Page 632, #60, Willis Lynch, Delaware District.

Q Now, these children, are they all living now?
A Yes, sir, the are all living.
Q Who is there here knows that you and your wife are living together as husband and wife; have you got any neighbors here?
A I guess there is all of them.
Q Give me the name of one ~~of~~ that knows? A Allen Lynch knows.

ALLEN LYNCH, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give your name, please? A Allen Lynch.
Q How old are you? A 61 years old.
Q What is your post office? A Vinita.
Q How long have you lived in the Cherokee Nation?
A Well I have been here all the time.
Q Do you know this applicant here, Aundersen Lynch? A Yes, sir.
Do you know his wife? A Yes, sir.
Q What is her name? A Well she was.
Q What is her given name now? A Rutha Lynch.
Q She has been married before she married this man, hasn't she?
A Yes, sir.
Q Give me the name of her former husband? A Alex Buffington.
Q Did you know her father? A Yes, sir.
Q What was his name? A Johnson Downing.
Q ~~Wha~~ And her mother? A Mary Clark.

Q And this Ruth Buffington formerly the wife of Alex Buffington, is the same woman as this man's wife now? A Yes, sir.
Do you know the children of this man and his wife, Ruth?
A Yes, sir.
Q What is the real name of that child they call Cute?
(No response.)
Q Is it Rose? A Mary J.
Q I find in the former application for this child by the mother that the one just after Claude she called Rose M.; what does that "M" stand for? A No, sir; I don't know.

ANDERSON LYNCH, the Applicant, re-called, further testified.

Q Now, Anderson Lynch, what does the "M" stand for?
A I don't know.
Q Is it Mary? A It maybe.
Q Do you know anything about the child being called Rose?
A Well, her first given name was Rosa May and then she was always so cute they just commenced calling her cute, that was her nickname.

COM'R BRECKINRIDGE: The applicant began his application for applying for himself, his wife and five children. It is found that his wife had previously applied for herself as shown in Cherokee case D.#487, and in that case she also applied for the five children just spoken of; therefore this applicant is discontinued as regard all except the applicant himself. The applicant is identified on the roll of 1880 and 1896 as a Cherokee Freedman. He states that he has lived in the Cherokee Nation all his life and he will now be listed for enrollment as a Cherokee Freedman.

A copy of this testimony will be filed in case Cherokee D.#487, the same being the case of the applicant's wife, Ruth [illegible]. Lynch, and her children. She and the five children mentioned in the testimony are duly identified on the rolls; she being identified on the roll of 1880 and on that of 1896, and these five children being identified on the roll of 1896. The applicant's wife and these five children are identified as Cherokee Freedmen, she being so classed on both rolls referred to. These children are all said to be living now. A note will be made on card #D.487, calling attention to this testimony. It is claimed that the applicant's wife is a Cherokee by blood, and as indicated, her enrollment have been as a Cherokee Freedman.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 20th day of July, 1901.

Commissioner.

Supl.-C.D.#487.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of RUTH B. LYNCH, ET AL., as citizens of the Cherokee Nation:

The applicant was notified by registered letter February 12, 1902, that hercase would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902. Receipt has been acknowledged of the Commission's letter and the applicant this day appears by her Attorney W. D. Humphrey. It appears from the records of the Commission that W. P. Thompson, Vinita Indian Territory, was formerly employed in this case. He this day appears and advises the Commission that he has given up this case and desires his name stricken from the records as attorney for the applicant.

Mr. W. W. Hastings, Cherokee Representative, present.

Mr. Humphrey: The applicant at this time submits the case for final decision.

Commission: The attorneyfor the applicant and the representative of the Cherokee Nation present sumit the case. The same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in this case on this day, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

IN THE MATTER OF THE APPLICATION OF

Ruth B. Lynch et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

[illegible] Citizenship

D 407

Decision

IN THE MATTER OF THE APPLICATION OF

Ruth B. Lynch et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

[illegible]

A. Original testimony Oct 1 1900.
B. Memo of application Oct 1-1900.
C. Affidavit of birth – Willis Lynch
D. Supplemental testimony Feb 14 1901
E Testimony from Anderson Lynch case May 1901

F. Receipt for testimony.
Notice of final consideration, 2 28 '02
Order closing testimony, Feb. 28, 1902

Decision

[illegible]

Freedmen

Cher D 488

Cher D 488

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly copied the testimony in the case of John W. Martin, and that the foregoing is a true and complete copy of the same.

Subscribed and sworn to before me this March 4, 1908.

Commissioner.

File with case C.D.#488.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 25, 1900.

In the matter of the application of John W. Martin for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A John W. Martin.
Q What is your age? A About 51/
Q What is your post office address? A Vinita.
Q In what district do you live? A Cooweescoowee.
Q Are you a recognised citizen of the Cherokee Nation by blood?
A Yes, sir.
Q What degree of blood do you claim? A I am about half.
Q For whom do you apply for enrollment? A Myself, wife and children.
Q What is the name of your wife? A Nannie Martin.
Q Is she a Cherokee citizen by blood? A No, sir.
Q When did you marry her? A Here is the certificate; I can't remember. (Produces papers.)

Com'r Needles: The applicant presents certificate of marriage certifying that he was married to one Nannie Brackley on February 14, 1884.

Q Your wife is a white person? A Yes, sir.
Q What is the name of your father? A Gabe Martin.
Q Is he living? A No, sir.
Q What is the name of your mother? A Eliza Martin.
Q Is she living? A No, sir
Q Your wife's mother and father are non-citizens? A Yes, sir.

Note: Applicant hands Commissioner list of his children and Commissioner reads as follows:
Mamie, fifteen years old; Harry, 9 years old; Walter, 6 years old; Gracie, 2 years old.
Applicant presents certificate of brith as to his youngest child, Gracie.

Q Have these children got any middle names? A No, sir.
Q Are they all alive and living with you? A Yes, sir
Q Is your name on the roll of 1880? A I think not.
Q Why? A I was in Muskogee I didn't get back soon enough I think, I come to this country in 1861.
Q Have you got a certificate of admission? A No, sir.

1880 roll examined for applicant and name not found.
1896 roll page 509 #2217 John W. Martin Delaware district.

Q Your father and mother not on the 1880 roll? A No, sir.

1894 roll page 434 #1984 John W. Martin, Delaware;
1894 roll page 434 #1987 Mamie Martin, Delaware;
1894 roll page 434 #1988 Harry Martin, "
1894 roll page 434 #1989 Walter Martin, "
1896 roll page for wife, 581 #340 Nannie Martin Delaware;
1896 roll page 509 #2220 Maimy Martin, "
1896 roll page 509 #2221 Harry Martin, "
1896 roll page 509, #2222 Walter Martin, "

L. W. BUFFINGTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A L. W. Buffington.
Q What is your age? A Forty-two.
Q What district do you live in? A Delaware.

Q Do you know John W. Martin? A Yes, sir
Q Do you know anything about him being a Cherokee citizen?
A Yes, sir, I know he is a Cherokee by blood.
Q Did you know his father? A No, sir
Q Did you know his mother? A No, sir.
Q What reason have you to believe he is a Cherokee by blood?
A I knew his uncle, a brother of his father.

BY CHEROKEE REP'VE W. W. HASTINGS:

Q How long have you known this party? A Ever since 1882.
Q Did you know him before that time, A No, sir
Q You know where he came from when he came here? A No, sir
Q You know where he was born and raised? A No, sir.
Q You know why he wasn't on the roll of 1880? A No, sir.

APPLICANT RE-CALLED, and examined by Cher. Rep've Hastings:

Q Where were you in 1880? A I think I was in Vinita. The latter part of 1880.
Q How long did you live in Texas? A I went to Texas when I was about 17 or 18 years old, about '66 or 7 and I come back in '80. and I was at Muskogee the fore part of 1880 and I think I got to Vinita in the latter part of 1880.
Q You are 51 years old now? A I was either born in 48 or '49.
Q You were 30 years old when you returned? A About that.
Q You never was re-admitted to citizenship? A No, sir, I never gave up my citizenship; I drove a team to Texas for a man and when I got there I staid there.
Q You staid there about 14 years? A About 13 years.
Q Was your first wife a Cherokee? A No, sir.

Com'r Needles: The name of John W. Martin appears upon the census roll of 1896; he presents certified proof of his marriage to one Nannie Brackley, a white person, in the year 1884; the names of his children, Mamie, Harry and Walter, appear upon the census roll of 1896, as well as the pay roll of 1894; the name of John W. also appears upon the pay roll of 1894; his name does not appear upon the authenticated roll of 1880; he presents no certificate of re-admission, and testifies that he went to Texas and remained there some 13 years, coming back to the Territory in the year 1880 or 188~~1~~; final judgment as to the enrollment of said John W. Martin, and his wife Nannie and the8r children as enumerated in the testimony will be suspended, and their names will be placed upon a doubtful card.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green,

Subscribed and sworn to before me this 25th day of September, 1900.

(Signed) T. B. Needles,
Commissioner.

* * *

SUPPLEMENTAL TESTIMONY. Cher. D.#418.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d, 1901.

In the matter of the enrollment of John W. Martin, et al., as citizens of the Cherokee Nation, the following supplemental testimony is offered on the part of the applicants:

JAMES M. BELL, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name? A James M. Bell.

Q How old are you? A 69 years old.

Q What is your post office? A Needmore.

Q In what district do you live? A Delaware.

Q You are here I believe to give testimony in the case of John W. Martin and his family? A Yes, sir, and more particular in his behalf, I know but little about his family.

Q In this case his family appear to depend upon his status?
A Yes, sir; it is in his behalf.

Q How long have you lived in the Cherokee Nation? A Since '39 with a very little exception, I went to schoooll out of the country.

Q You know John W. Martin, do you? A Yes, sir.

Q How long have you known him? A Since a child three or four years old perhaps.

Q Do you know his wife, Nancy? A No, sir, I don't know her.

Q You are not acquainted with her at this time? A No, sir; that wife is not his present wife; I don't think I know his present wife.

Q What is the name of his present wife? A I don't know what her given name is, but she is a white woman.

Q You do know his present wife? A Yes, sir.

Q How long has he been married to his present wife? A I think about 16 or 18 years, I am not positive as to the time, about as much as that.

Q What was the name of his present wife when he married her?
A I don't know that, she was a widow woman.

Q Well, that corresponds to his statement; that his present wife is a white woman, that he has been married to her since '84, that would be some 16 years? A Yes, sir

Q How many times has John W. Martin been married? A Twice to my knowledge.

Q Was his first wife dead when he married this woman? A Yes, sir.

Q You say his present wife was a widow? A Yes, sir

Q How many times has she been married? A I don't know, sir, she has two children.

Q By a former husband? A Yes, sir.

Q Was that husband dead when she married Martin? A I think so, yes, sir; that is my understandthat her husband was dead.

Q Is John W. Martin's father living? A No, sir.

Q Has he been dead many years? A He has been dead since '52 I think.

Q Is his mother living? A No, sir.

Q Has she been dead many years? A She died about the same time.

Q [illegible]

Q Do you know where he was born? A He was born in Tahlequah district, or Flint, and I don't know which, his grandmother lived right where the High School, Colored High School.

Q. Have you always considered him a native Cherokee? A Yes, sir

Q Has he been recognized as a Cherokee by blood always? A Yes, sir.

Q He went to Texas at one time did he not? A Yes, sir.

Q Do you know when that was? A He was about, he was hardly grown when he went there, 14 years old.

Q Do you know where he went? A I don't know about what point in Texas he did go.

Q Just only that he went to Texas? A Yes, sir

Q You meant to say that you only knew he did go to Texas?

A Yes, sir; he went to Texas.
Q Do you know how long he stayed there? A He stayed there until after he was grown.
Q About how many years? A He oearned his trade there, he is a Saddler, Harness man.
Q Did you know for what purpose he went to Texas? A He told me the purpose he went there for was to drive a wagon.
Q Just taking a wagon down there? A Just for another man, load of applies I believe, hauled from this country to that.
Q That is the only purpose you know of? A Yes, sir
Q And then stayed as you say fro sometime after he had reached his majority? A I don't know that he had reached his majority or not; until after he had learned his trade.
Q The point is whether he had reached his majority when he came back? A I don't know that time that he was of age or hardly of age.
Q When did you see him soon after his return? A No, sir, I saw him after he come to this point here.
Q Do you mean Vinita? A Yes, sir.
Q When was that? A I think that was in '70; perhaps not as far back as that, perhaps '80 or '81.
Q Have you any knowledge of how long he was here when you saw him at that time A No, sir
Q Can you explain why he is not on the roll of 1880? A His absence from here was the only reason.
Q Only reason you know? A Yes, sir; but I think he was in the Territory, he was in the Creek Nation, I think at that time, he stopped at Muskogee:
Q What reasons have you to know that? A I had that from himself.
Q What did he tell you? A Told me he stopped in Muskogee and worked at his trade there.
Q Did he tell you how long he worked there? A No, sir, but he must have been there quite a while.
Q what means have you of knowing that? A None only.
Q That is just a supposition isn't it? A That he was there?
Q Yes? A I got that from himself.
Q What did he tell you? A He told me about, all I recollect about that is that he told me he stopped in Muskogee and worked his trade.
Q He didn't tell you how long? A No, sir.
Q Nor when he came? A No, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q You stated that John W. Martin was married twice to your knowledge; where was he married the first time? A I don't know that, he came here with a wife that died here.
Q You don't know how long he had been married? A Previous to that, no, sir; his oldest son, Charley, I suppose is 28 or 30 years old, I don't know how old he is.
Q His oldest son? A Is between 28 or 30 years old.

BY COMMISSIONER BRECKINRIDGE:

Q Is he here? A No, sir, he is in Town though.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof. (Signed) J. O. Rosson.

Subscribed and sworn to before me this 27th day of May, 1901.
(Signed) C. R. Breckinridge,
Commissioner.

---ooo00oooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly copied the testimonyin the case of John W. Martin, and that the foregoing is a true and complete copy of the same.

J O Rosson

Subscribed and sworn to before me this March 4, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., OCTOBER 2nd, 1900.

IN THE MATTER OF THE APPLICATION OF Cora Ellen Martin for enrollment as a citizen of the Cherokee Nation, and she being sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:

Q Give me your name please? A Cora Ellen Martin.
Q How old are you? A Twenty one.
Q What is your Postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll; yourself?
A Myself.
Q Just yourself? A Yes sir.
Q Do you apply as a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee Nation? A About eighteen or nineteen years.
Q Where did you live before that? A In Texas.
Q Did you come from Texas eighteen or nineteen years ago with your father and mother? A Yes sir.
Q Give me your fathers name please? A John W. Martin.
Q He is living? A Yes sir.
Q Your mother's name? A Laura Ellen Martin.
Q Is she living or dead? A Dead.
Q How long has she been dead? A She died in about 1884.
Q She died after you came from - soon after you came from Texas?
A Yes sir.

John W. Martin being called, sworn and examined by Commissioner, C. R. Breckinridge, testified as follows:
Q Give your name please? A John W. Martin.
Q Your age? A I am about fifty one.
Q Your Postoffice? A Vinita.
Q Are you the father of this young lady? A Yes sir.
Q Did you move here from Texas some eighteen or nineteen years ago with your family? A Yes sir.
Q Did you ever live in the Cherokee Nation before that?
A Yes sir.
Q Are you on the roll of 1880? A No sir.
Q Did you ~~[illegible]~~ ever apply ~~[illegible]~~ to the Cherokee Commission or Council at Tahlequah for admission for yourself and family?
A No sir.
Q Did you apply to the Dawes Commission in 1896, for admission for yourself and family? A I do not think I did; no sir.
Q You were never admitted by the Dawes Commission, or the United States Court? A No sir.
Q Was your wife a white woman or a Cherokee? A She was a white woman.
Q Where were you born? A In the Cherokee Nation.
Q When did you leave the Cherokee Nation first? A I left the Cherokee Nation - when I first left I think it was in 1862; I served in the United States army.
Q After ~~[illegible]~~, where did you live? A I came back to this country and lived here two or three years, then went to Texas.
Q In what year after the war? A I think it was in 1866, or 1867.
Q How long did you stay there? A I stayed there about seventeen or eighteen years.
Q Did you stay there until you came here with your family some eighteen years ago? A Yes sir; I came to Muskogee and stayed a while; I think I moved here either in the Fall of 1880, or the first part of 1881; We came here in the Winter time.
Q You have been living here ever since? A Yes sir.
Q But you never applied for readmission to Cherokee citizenship?
A No sir.

Applicant enrolled:
([illegible] Roll, Page [illegible], #[illegible], Cora Ellen Martin, Delaware Dist)

The applicant is [illegible] on the roll of 1880, and states that she [illegible] the State of Texas [illegible] years ago. [illegible] further states that he went to the State of Texas in [illegible], and stayed there until the fall of [illegible], or the winter of [illegible] [illegible] the roll of 1880, and he states that he has not [illegible] Cherokee [illegible] Martin [illegible] of the applicant, her application will at this time be passed upon a Doubtful card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Gra[illegible]

Subscribed and sworn to before
me this 4th day of October, 1900.

COMMISSIONER.

Supl.-C.D.#488.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of CORA E. MARTIN as a citizen of the Cherokee Nation:

The applicant was notified by registered letter February 12, 1902, that her application for enrollment as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission on the 28th day of February, 1902. Receipt has been acknowledged of Commission's letter, and the applicant this day, to-wit: the 28th day of February, 1902, appears by her attorneys, Mellette & Smith, Vinita, Indian Territory.

Mr. W. W. Hastings, Cherokee representative, present.

Mr. Mellette: The applicant in this case is the daughter of John W. Martin who applies for enrollment as a Cherokee citizenship on D. card 418 and asks that the testimony in that case be made part of the testimony in this case and copy thereof filed herewith.

Commission: The request of the attorney for applicant will be complied with.

The attorney for the applicant and representative of the Cherokee Nation present submit the case, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant will be allowed 15 days in which to file a brief of the case, one copy with the Commission and one copy with the representative of the Cherokee Nation.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner

Cherokee D. 483.

John E. Martin.

Brief of Cherokee Nation.

Department of the Interior.

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 10, 1902.

In the matter of the application of
Cora E. Martin for enrollment as a citizen
of the Cherokee Nation. C. D. 488.

Brief on behalf of the Cherokee Nation.

* * *

The applicant was born in the state of Texas. She was haxx twentY-one Years old when she applied in 1900; her mother was a white woman, and she claims John W. Martin, enlisted for enrollment on Cherokee Doubtful card No. 418, as her father. Her father claims to have come to the Cherokee Nation in 1881; neither are on the roll of 1880, and neither were re-admitted to citizenship in the Cherokee Nation subsequent to that time. There is no proof of marriage between the parents of the applicant, and applicant's mother is a white woman. She has an older brother born in Texas in 1876, which shows that her father must have lived there with their mother prior to that time.

The Cherokee Nation can not see how the Commission can enroll the applicant, and refers the Commission to the brief filed bY the Cherokee Nation in the case of applicant's father, John W. Martin, Cherokee Doubtful No. 418.

RespectfullY submitted.

W W Hastings JCS

AttorneY for the Cherokee Nation.

W H M.

Ct #88
Ora E Martin
vs
Cherokee Nation

Copy for Ct.
Brief of
applicants

Mellette & Smith
Atty for Appl

[illegible] COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Cora E. Martin, for [illegible].
488.

Cora E. Martin, is the daughter of John F. Martin, who was listed for enrollment upon Cherokee doubtful card # 418, and whose case was [illegible]. [illegible] the status of this applicant is dependent upon [illegible], the said John F. Martin, this case is submitted [illegible] that case, Cherokee doubtful # 418.

Respectfully submitted,

Mellette & Smith
Attorney's for [illegible].

D 428

IN THE MATTER OF THE APPLICATION OF

Cora E. Martin

FOR ENROLLMENT AS

CHEROKEE CITIZEN

1. [illegible]

[illegible]

THE MATTER OF THE APPLICATION OF

Dora E. Martin

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Oct 2-1900.

B Memo. of application. Oct 2-1900.

C Notice of final consideration, 2-28-1902,

D Order closing testimony, Feb. 28, 1902

[illegible]

[illegible]

E Testimony from John H. Martin case

F Brief of applicant

Cancelled and transferred to
Cherokee No 11[illegible]5

Cher D 489

Cher D 489

DEPARTMENT OF THE IN[illegible]IOR
COMMISSION TO THE FIVE [illegible] TRIBES.
FIL[illegible]
OCT 4 [illegible]
[illegible] CHAIRMAN

D 489

NOTE: Rejected as to Applicant's wife, Child Doubtful.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER [illegible], 1900.

In the matter of the application of James Wilbert Smith for the enrollment of himself, wife and child as citizens of the Cherokee Nation; said Smith being sworn by Commissioner C. R. Breckinridge testified as follows:

Q Give us your full name? A James Wilbert Smith.
Q How old are you? A [illegible].
Q What is your post office? A [illegible].
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A Myself, wife and child.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What was the name of your father? A J. B. Smith.
Q Dead or alive? A Alive.
Q What is the name of your mother? A Emma.
Q Dead or alive? A Alive.
Q What is the name of the child? A Homer.
Q How old is the child? A Nine months old.
Q What is the name of its mother? A Laura B.
Q Is she dead or alive? A Alive.
Q Is she a white woman? A Yes, sir.
Q When did you marry her? A [illegible].
Q Have you a certificate of your marriage? A Not with me.
Q What was her maiden name? A Duggins.
Q How old is she? A [illegible].
Q Was she never married before? A No, sir.
Q Have you someone here who knows of your marriage? A No, sir.

1880 enrollment; page 2 314, #2347, Emma Smith, Delaware.
1880 enrollment; page 314, #2346, J. B. Smith, Delaware.
1896 enrollment; page [illegible], #[illegible], James W. Smith, Delaware.

Com'r Breckinridge:--The applicant applies for the enrollment of himself, his wife and one child. He is identified on the roll of 1896. He is too young to be on the roll of 1880. He is a native Cherokee and has lived in the Cherokee Nation all his life. His father and mother are identified on the roll of 1880. He will now be listed for enrollment as a Cherokee by blood.

He states that he was married to his wife, a white woman, in [illegible], but does not present proof of the marriage at the present time. He is enjoined to send to the Commission a certificate of their marriage. His wife being married to him after the Cherokee law of [illegible], the application for her enrollment is rejected.

When the Commission is supplied with a proper certificate of the birth of Homer, nine months of age, this childs application will be placed upon a doubtful card, to await evidence of the mothers marriage as stated in the testimony, which evidence is desired--a proper certificate of the marriage.

----ooooOOOoooo----

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 4th day of October, 1900.

C R Breckinridge

COMMISSIONER.

Cherokee D. 489

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 3, 1902.

In the matter of the application of Homer Smith for enrollment as a Cherokee citizen.

Supplemental Statement.

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From a birth affidavit duly executed on the 28th day of September 1900, and received by this Commission on the second day of October, 1900, it appears that Homer Smith was born to Laura B. and James Wilbert Smith on the 18th day of December, 1899, and was living at the date of the execution of said affidavit. The same has been approved and filed with this Commission.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

Cherokee D 489

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Homer Smith for enrollment as a Cherokee citizen.

On the 2nd day of October, 1900, James Wilbert Smith appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself and his child, Homer, as citizens by blood of the Cherokee Nation, and for his wife as a citizen by intermarriage of the Cherokee Nation.

At the conclusion of the evidence offered at that time James Wilbert Smith was listed for enrollment on a regular card; the application for his wife was denied, and the name of the child, Homer was placed upon a "Doubtful" card awaiting proof of the marriage of his parents.

Further evidence in that matter has been submitted to the Commission and the following decision is rendered.

DECISION.

--oOo--

The evidence in this case shows that Laura B. Smith as Laura B. Buggins was lawfully married on July 16, 1898 to James Wilbert Smith. The parents of James Wilbert Smith are identified on the authenticated tribal roll of 1880, and he was born to them since the preparation of such roll. Homer Smith is the issue of the aforesaid marriage. He is too young to be upon any roll, but is duly identified as having been living at the date of this application.

This Commission in making rolls of citizenship of the Cherokee Nation is governed by the following provisions of the Act of Congress approved June 28, 1898 (30 Stats.,495):

> "That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes

is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that Homer Smith is entitled to be enrolled as a citizen by blood of the Cherokee Nation, and it is so ordered.

C. R. Breckinridge

Commissioners.

Dated at Muskogee, Indian Territory,

JUN 9 - 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:
Cher. D-490.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Homer Smith for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the person above named as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-490.

IN THE MATTER OF THE APPLICATION OF
Homer Smith
FOR ENROLLMENT AS
CHEROKEE CITIZENS

THE MATTER OF THE APPLICATION OF

Homer Smith

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. Oct 2-1900
B. Memo. of application. Oct 2-1900
C. Certificate of marriage -
D. Affidavit of birth - Homer Smith

Copy [illegible]

[illegible]

Sept. 15, 1902 Cancelled and transferred to Cherokee No [illegible]8

Enrolled

See Cherokee Jacket D. 39
3954, R213

Cher D-#10

Cher D #10

RH90

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 2 1900

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I.T., October [illegible], 1900.

In the matter of the application of Alexander Walker for the enrollment of himself, wife and children as Cherokee citizens of Shawnee blood; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Alexander Walker
Q How old are you? A 42.
Q What is your post-office address? A Miami
Q What district do you live in? A Delaware.
Q Are you a recognized citizen by blood? A No sir
Q For whom do you apply for enrollment? A Mary Walker.
Q Your wife? A Yes sir.
Q What was her name before you married her? A Mary Garrett.
Q What is her father's name? A Samuel Garrett.
Q What is her mother's name? A Dixie Garrett
Q Are they living? A No sir
Q What is the age of your wife? A 33.
Q When were you married to her? A I was married the first time in 1886 in Kansas City Missouri, and the second time in 1889 in the Cherokee Nation.
Q By Cherokee law? A Yes sir
Q Don't you apply for yourself then? A Yes sir.
Q Have you got a certificate of marriage? A Yes sir. (Produces papers)
Com'r: The applicant presents duly authenticated marriage license and certificate of marriage certifying that he was married on the 26th day of September 1889 to one Miss Mollie Garrett a citizen of the Cherokee Nation, according to the laws of the Cherokee Nation.
Q Have you any children? A Yes sir/6.
Q Do you want to enroll them? A Yes sir.
Q What are the names of your children? A Estella, 12 years old Mabel, 10 years old; Callie Ella, 8 years old; Samuel Lewis, 6 years old; Emory Frederick, 4 years old; Blanche, 2 years old
Q Are these children all alive and living with you at this time?
A Yes sir.
Q Have you any proof of birth as to this youngest child? A Yes sir (Produces papers)
Com'r: Applicant presents proof of birth as to Blanche, his youngest child.
Q How long have you lived in the Cherokee Nation? A 13 years.
Q Were you ever married before you married Mary Garrett? A No sir
Q Was she ever married before? A No sir.
Q You are living with her now? A Yes sir
Q Your wife is not on the roll of 1880? A No sir, I think not
Q How does she get citizenship then? A Her father was registered here as a Shawnee.
Q Is she a Shawnee? A Yes sir
Q Have you any proof of her citizenship? A Yes sir, Steve Bluejacket he knows.

Examined by Cherokee Representative W. W. Hastings:

Q She came down here in '71 or 2 with the Shawnees? A Yes sir
Q And staid here about 2 years? A Staid here until 1874.
Q And then went back to Kansas? A Yes sir.
Q And staid there until you married her, 13 years? A Yes sir.
Q You married her, and she came back here in 1889? A No sir, 1887.
Q She staid there from 1874 until 1887? A Yes sir
Q Upon your return neither of you were ever admitted to citizenship in this country? A I got my license here and voted here.

Q You were [illegible] according to Council? A No sir.
Q Is your wife a [illegible] Dick Garrett's, that registered here the [illegible]
Q And [illegible] a cit zen of the [illegible] Nation and lived [illegible] near Kansas City, about 14 miles from there [illegible] Yes sir.
Q And has for years? A Yes sir
1896 roll page [illegible] #[illegible] Alexander Walker, Delaware District;
1896 roll page [illegible] #[illegible] Mary Walker, Delaware District;
1896 roll page 615 #4373 Estella Walker, Delaware District;
1896 roll page 615 #4374 Mabel Walker "
1896 roll page 615 #4375 Callie Walker, "
1896 roll page 615 #[illegible] Samuel L. Walker "
1896 roll page 615 #4377 as Annie B. Walker, "

Com'r Needles: The name of Mary Garrett and her husband Alexander Walker and their children, as enumerated in the testimony names appear upon the census roll of 1896; Alexander Walker swears that his wife Mary is a Shawnee citizen by blood, and makes proof that he was married to her in the year 1889; the facts as to his residence will be found in the testimony taken herewith; because of his residence, not being satisfactorily established, the names of said Alexander Walker, his wife Mary, and his children as specified in the testimony will be placed upon a doubtful card, and final judgment as to the application for enrollment of said parties will be suspended.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 2nd day of October 1900.

Commissioner.

File with Alexander Walker et al., Cherokee doubtful 480.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 23rd, 1901.

In the matter of the application of Frederick Garrett, Cherokee Card D-495. SUPPLEMENTAL TESTIMONY ON THE PART OF THE APPLICANT.

Appearances:
J. L. Baugh for the Cherokee Nation
Mellette & Smith for the applicants.

FREDERICK GARRETT being first duly sworn by Com'r T. B. Needles, testifies as follows.

(By Mr. Smith) State your name? A Frederick Garrett.

Q Are you the applicant in this case? A Yes sir.

Q You have testified in the case before? A Yes sir.

Q Before the Commission when you made your application? A Yes sir.

Q Do you remember what year it was that you returned to the Cherokee Nation after your father took you out when you were a boy? A I think it was either '86 or '87.

Q To what place did you return? A To the old home place.

Q Did you have any pproperty on that place at that time? A An interest in some cattle.

Q How many cattle? A 145 head.

Q What did you do with these cattle? A I have part of them yet.

Q Did you ever vote anywheres except in the Cherokee Nation? A No sir

Q Ever held office anywheres except in the Cherokee Nation? A No sir.

Q Ever sit on juries anywheres except in the Cherokee Nation? A No sir.

Q Have you ever voted in the Cherokee Nation? A Yes sir.

Q Ever have any permits issued to you by the Cherokee Nation? A Yes sir.

Q Where did you have the permits? A You mean where were they issued from?

Q Yes sir. A From the Clerk's office.

Q What clerk? A Mr Hastings was clerk when I got some of them.

Q What Hastings? A I dont know his first name.

Q Clerk of what district? A Delaware district.

Q Have you a brother named George Garrett? A Yes sir.

Q When did he come back to the Cherokee Nation after your father took him out? A I dont remember just when it was, he was here 2 or 3 years before I came.

Q He was here when you came? A Yes sir.

Q Have you a brother named Robert L.? A Yes sir.

Q When did he come back? A Same year I did, just before I did.

Q Have you a sister named Mary? A Yes sir.

Q When did she return? A When Robert did.

Q What you a sister named Elizabeth? A Yes sir.

Q When did she return? A Same time the others did, just before I did.

Q Were your brothers Robert and George recognized in the same way that you were? A Yes sir, I think so, I never heard anything different.

Q I believe you stated in your original examination here that you had property here in the Cherokee Nation during the time you were our? A I had an undivided interest in the cattle was all.

Q Does your name appear on the Shawnee roll of 772 persons which was made out in accordance with the treaty of 1869? A I think it does.

BY MR. SMITH: If the Court please I would like to have the Shawnee rolls examined and that part thereof which mentions the name of this applicant, made a part of this record.

BY COM'R NEEDLES: Comes the applicant and presents the Register of the names of the members of the Shawnee Tribe of Indians who have moved to and located in the Cherokee Nation, Indian Territory (prior to the 10th day of June 1871) within two years from the 9th day of June 1869 in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians through their delegations in Washington D. C., United States of America on the 7th day of June 1869 and approved by the President of the United States on the 9th day of June 1869 in accordance with the Fifteenth Article of the Cherokee treaty ~~af~~ with the United States proclaimed August the 11th 1866, and calls the attention of the Commission to the fact that on said rolls at #381 is found the name of Frederick Garrett. Said rolls being a printed list in the possession of the Cherokee Representatives and the said rolls being certified to by Lewis Downing Principal Chief of the Cherokee Nation and by Graham Rogers, Late Principal Chief of the Shawnee Tribe of Indians and by Charles Tucker, Late Ass't. Principal Chief of the Shawnee Tribe of Indians.

Applicant also calls the attention of the Commission to th fact that at numbers 377 is found the name of Samuel Garrett; at #378 is found the name of Richard Garrett; at #379 is found the name of Geo. Garrett; at #380 is found the name of Robert L. Garrett; and at #382 is found the name of Mary Garrett.

(By Smith of applicant)
Q What is the fact as to your sister Elizabeth Garrett, what is the fact as to her ~~returning~~ coming here with you originally ? A She came with my father and the rest of the family.
Q She came here with your father? A Yes sir and kept house for him at the time.
(By Mr. Baugh)
Q How old was you when you returned from Kansas to the Cherokee Nation after you had left here? A About 20 years old.
Q Did you go to the Cherokee National Council and ask to be re-admitted to citizenship? A No sir.

J. C. WILLIAMSON being first duly sworn ~~states and says~~ before Com'r T.B.Needles, testified as follows for applicant-
(By Smith)
Q What is your name? A J. C. Williamson.
Q Where do you live? A Bluejacket.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A I dont know that I am
Q You dont know? A (No answer)
Q How long have you lived in the Cherokee Nation? A Since September 1870.
Q What is your occupation? A Farming and stock raising.
Q Where did you come from to the Cherokee Nation? A Johnson County Kansas.
Q With whom did you come? A I came by myself but I had George W. Franklin's household goods and moving machine with me.
Q Is he a Shawnee citizen? A Yes sir.
Q Did you come as one? A No sir.
Q Did you marry a Shawnee citizen afterwards? A Yes sir.
Q Do you know this man Frederick Garrett? A Yes sir.
Q Do you know his father? A Yes sir.
Q What is his father's name? A Samuel.
Q Do you know his brothers and sisters? A Yes sir.
Q Can you name them? A Richard, Elizabeth, Fred, Robert, Mary and George.
Q Were they all the children of Samuel Garrett? A He claimed them to be his.
Q Did he bring them here with him when he came? A I didn't see them enroute but I saw them all on the Neosho river where he was living with his family.
Q When was that? A I am not positive if I saw them in '70 but I know

I saw them in '71, I know they were there in '71, and I think I saw them in '70; I stopped there in '71.

Q Did you know Samuel Garrett before he came to the Cherokee Nation?
A Yes sir.
Q What was he? A A farmer.
Q Was he a Shawnee? A Yes sir.
Q An adopted Shawnee? A Yes sir.
Q And he came here when the Shawnees came? A Yes sir.
Q Did you know Frederick Garrett who has just left the stand here?
A Yes sir.
Q Is he the same Frederick Garrett that you knew and who was brought here by his father and whose name is on the Shawnee rolls? A Yes sir
Q And these brothers and sisters that you have named, do you know them as the brothers and sisters of Frederick? A Yes sir, I knew them when they came here.
Q Do you know anything about where Samuel Garrett lived when he lived here in '70 or '71? A Yes sir.
Q Where? A On the Chetopa and Carrie Ferry road on Fox creek near Neosho river in Delaware district Cherokee Nation.
Q With his family? A Yes sir.
Q These are the same people that you stopped with in '70 or 71? A Yes sir.
Q Did he improve a place there? A Yes sir.
Q In what way? A Built a house, fenced it and broke out a farm .
Q How long did the old man Samuel Garrett live there before he left that place, as well as you recollect? A As well as I recollect he left there in the fall of '75 or '6.
Q Did he take Frederick back with him? A I think he took Frederick with him, he left two of the boys.
Q Which two did he leave? A I think Richard and George.
Q Do you know what disposition was made of the place ~~that~~ when old man Garrett left there that time? A Yes sir.
Q What? A I rented the place.
Q How long did you have it rented? A I lived on the place as well as I remember about 18 months.
Q What property, if any, did these people leave upon that place? A He left somewhere about 80 head of cattle, cook stove and a bed and bead stead, I think some house furniture, some plows,
Q About 80 head of cattle, some household goods and some farming implements? A Yes sir.
Q Was the old man Samuel Garrett ever back on the place after you rented it from him? A He was there back on the place every few months I cant call how often.
Q He had property there? A Yes sir.
Q Do you know of his voting in the Cherokee Nation after he left the place and went to Johnson County Kansas? A Nothing more than that he stopped with ~~him~~ me.
Q Voted? A Oh voted, yes sir.
Q In the Cherokee Nation? A Yes sir,
Q Do you know if he had property interests in Johnson county Kansas
A Yes sir I know he owned a farm there when I was there and he owned quite a tract of land near Montecello Kansas, I dont know now how much of a farm he did have there.
Q After he left this place, at the time he rented it to you, do you know of him voting anywhere else except in the Cherokee Nation? A No sir.
Q Do you know of his holding himself out as a citizen of anywheres else except in the Cherokee Nation? A No sir.
Q Do you know of his receiving permits in the Cherokee Nation after he rented that place to you? A Not direct.
Q Did he ever come back to live on the place after that? A Not that I know of.
Q Do you know when he died? A I know when he died but can't call the date now.
Q About how long ago? A Either in '80 or 81

Q Do you know this applicant Frederick Garrett? A Yes sir.
Q Do you remember when he came back to the Cherokee Nation? A I remember about his return, but I dont remember what year.
Q Do you know if some of this property you spoke of was on the place when Frederick got back? A I do not.
Q Were there any cattle on the place? A I think there was some cattle still on the place.
(By Baugh).
Q You say that you know old man Garrett voted in the Cherokee Nation?
A He came down there and went into the polls, that was after he came down from Chetopa, after he had moved up there.
Q Who did he vote for? A I disremember now.
Q You dont know if he voted or not do you? A I dont know if he did, he went into vote, I was not an officer at the polls and dont know if he cast his vote.
Q How long ago has it been since he moved to Kansas? A You mean when he first left the Cherokee Nation?
Q Yes sir A Well as near as I can remember it was in about '75.
Q He lived continuously from that time until his death in Kansas?
A Yes sir.
Q He never came back to the Cherokee Nation to live after that? A No sir not as I know of.

BY MR. BAUGH: I desire to offer in evidence a part of the Shawnee-Cherokee Agreement entered into between the duly authorized delegates representing the Cherokee Nation of Indians, and the duly authorized delegates representing the Shawnee tribe of Indians, and in order to make special reference to it will read a part of said agreement:

" That all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein providedm within two years from the date hereof, otherwise they shall forfeit all rights under this agreement. "

I desire to further call the attention of the Commission to Article 1., Section 2 of the Constitution of the Cherokee Nation .

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BY COM'R Needles: This will be filed in Cherokee Doubtful case D-495.

BY MR. SMITH: I desire this testimony also to be filed in the following cases: Cherokee D-458; Cherokee D-490; Cherokee D-856 and Cherokee D-1201.

BY COM'R NEEDLES: As requested by applicant's attorney copies of this testimony will be filed in the cases named.

* * * * * * * * *

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 25th of October, 1901.

C. R. Breckinridge

Commissioner.

2478

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
NOV 11 1902
Acting Chairman

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 27th, 1902.

In the matter of the application of Alexander Walker for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his wife--Mary Walker--and his children--Estella, Mabel, Callie E., Samuel L., Emery F. and Blanche Walker--as citizens of the Cherokee Nation of Shawnee blood.

Supplemental to D-490.

Applicant appears in person.
Cherokee Nation by J. C. Starr.

ALEXANDER WALKER, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name, please? A. Alexander Walker.
Q. How old are you? A. 44.
Q. What is your post office? A. Dawes and Chetopa.
Q. Are you an applicant for enrollment as an intermarried citizen?
A. Yes, sir.
Q. What is your wife's name? A. Mary Walker.
Q. Is she a citizen by blood of the Cherokee Nation? A. Yes, sir. Shawnee.
Q. When were you married to your wife Mary? A. The first time in '86.
Q. Where? A. Kansas City, Missouri.
Q. Then you were married to her again? A. Yes, sir.
Q. When? A. '88.
Q. Where? A. Bluejacket, Indian Territory.
Q. Married under a Cherokee license? A. Yes, sir.
Q. Have you filed the license with the Commission? A. Yes, sir.
Q. Had you ever been married before you married her? A. No, sir.
Q. Had she ever been married before? A. No, sir.
Q. You are her first husband, she is your first wife?
A. Yes, sir.
Q. Have you and your wife Mary lived together as husband and wife from the time of your marriage in 1888 up to the present time?
A. Yes, sir.
Q. Never have been separated? A. No, sir.
Q. Were you and she living together as husband and wife on the first of September, 1902? A. Yes, sir.
Q. Have you lived in the Cherokee Nation ever since you married your wife in 1888? A. No, sir.
Q. Where have you lived? A. Chetopa.
Q. Chetopa, Kansas? A. Yes, sir.
Q. When did you go to Chetopa, Kansas? A. About 6 or 7 years ago.
Q. Did you move your family there 6 or 7 years ago?
A. My wife and children; my children were in school.
Q. What time of the year did you go to Chetopa? A. Went there in the summer.
Q. Did you rent a house and keep house in Chetopa? A. No, sir; my wife had a house. She inherited it.
Q. You lived in that house since 1895 and sent your children to school? A. Only in school season.
Q. What did you do after school was out? A. I took them down on the farm. I lived on the farm myself.
Q. You never have lived up there yourself? A. Only just temporarily, when I am not working on the farm. Sometimes go up on the last of the week; sometimes not atall.

Q. During the busy season you didn't go up at all? A. Sometimes didn't go up at all. I stayed on the farm nearly all the time. I have stock there to take care of.

Q. How long has your wife and family ever stayed in the Territory at any one time since you moved them to Chetopa in 1895?

A. 2 or 3 months. Stayed there that time and then go back; from the time school was out until the next term commenced.

Q. When your wife and children came back to the farm in the summer what did you do with the household things in Chetopa?

A. Locked them up.

Q. Q. What did you keep house with on the farm? A. We have household goods there.

Q. You have two sets of household goods? A. Yes, sir.

Q. Has your wife and children been going to stay on the farm all the time after school? A. Not all the time. Backwards and forwards. Go up there a stay a day and come back on the farm.

Q. As a matter of fact the just come and visit you? A. No, sir; that is their home.

Q. How far do you live from Chetopa? A. About 15 miles. It is through the vacation they come out home; Christmas time.

Q. Now, Estella, Mabel and Callie E. were born here in the Cherokee Nation, were they? A. Yes, sir.

Q. Where was Samuel L., Emery F. and Blanche born? A. In Chetopa.

Q. All born there? A. Yes, sir.

Q. You have had a house and household goods there in Chetopa for about 7 years? A. Yes, sir.

Q. And your wife and family stay about 9 months out of the year there? A. No, sir; not all the time. They have been backwards and forwards. Some of the time they stayed up there.

Q. Have you cultivated your farm since your family went there?

A. Yes, sir. I rented a part of it.

Q. How many acres do you cultivate? A. Some years I have more than others.

Q. On the average? A. This year I have 50 or 60.

Q. Work that all your self? A. No, I hire a young man to help me.

Q. Now, from the time you married in 1888 up until seven years ago you and your wife lived in the Cherokee Nation, did you?

A. Yes, sir.

Q. Since then your home has been partly at Chetopa and partly in the Cherokee Nation? A. No, sir; my home is in the Territory.

Q. You lived in the Territory but your family stays in Chetopa?

A. Yes, sir.

Q. What is true about you and your wife is also true on these children, with reference to staying at Chetopa. They have been with your wife all the time? A. No, they are with me some of the time; stay there with me. Sometimes be there a week or two at a time.

Q. How long do you stay at Chetopa when you go there?

A. I don't think I have been there over a week and hardly ever that long.

Q. Kind of a bad way to live, isn't it? A. Well, we can't help it. We have got to educate our children. We can't allow them to grow up like wolves.

Q. All these children are living? A. Yes, sir.

Examination by Mr. Starr.

Q. You have got a school house on your farm, haven't you?

A. Yes, sir; now. Hardly ever have any school there.

Q. You have had school there? A. Very little. 2 or 3 months.

Jesse C. Carr, being first duly sworn, states that as stenographer [illegible] reported the above entitled case and [illegible] a true and complete transcript of his [illegible] thereof.

Jesse C. Carr

Subscribed and sworn to before me this 4th day of November, 1908.

B C Jones
Notary Public.

Cher
Supp'l to D 490

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., November 10, 1902.

In the matter of the application of ALEXANDER WALKER, for the enrollment of himself as a citizen by intermarriage, and his wife, MARY WALKER, and his children, ESTELLA, MABEL, CALLIE E., SAMUEL L., EMERY F. and BLANCHE WALKER, as citizens of the Cherokee Nation, of Shawnee blood:

Appearances:
Mallette & Smith, of Vinita, for the applicants;
W. W. Hastings, for the Cherokee Nation.

TESTIMONY FOR THE CHEROKEE NATION.

A. R. BELL, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings:

Q Q What is your name ? A A. R. Bell.
Q What is your age ? A Thirty nine.
Q What is your post office ? A Chetopa, Kansas.
Q Do you know Alexander Walker ? A Yes sir.
Q Do you know his wife ? A Yes sir.
Q You know his family ? A Yes sir.
Q Do you know his wife's name ? A I think it is Mary.
Q Do you know his children ? A Yes sir.
Q Where are they living ? A They are occupying a house right across the street from where I live.
Q How far from you ? A About sixty or eighty feet.
Q How long have they been living there ?
A They have been occupying that house for the larger part of the time for seven or eight years.
Q Does he run a water wagon up there ?
A He does.
Q How long has he been running it ?
A I think about four or five years.

Mr. Smith: I object to that as immaterial.

Q He is supplying the people with water ?
A No sir, he sprinkles the streets.

Examined by Mr. Smith:

Q You said Mr. Walker's family had lived in that house during the larger part of the time ? A I said they occupied it.
Q Where were they the other part of the time ?
A I don't know, they went away somewhere.
Q Did you hear them say where they went ?
A I had an understanding where they went, but I never heard them say. Of course we had an understanding where they went.
Q Do you know whether he has a farm in the Cherokee Nation ?
A Yes sir.
Q How far from Chetopa ? A About fifteen or sixteen miles.
Q Have you ever been there ? A No sir, but I have seen it from a distance, one represented to me as his.

Q Is there a house on it ? A Yes sir.
Q What kind of a house ? A I judge it was a two story house.
Q Ever been in it ? A No sir.
Q Do you know what property Walker has on that place ?
A Only from a distance, it looked like it was prettyx well improved.
Q Do you know whether he has any cattle on it or not ?
A I can't say.
Q You don't know as to the furniture in the house ? A No sir.
Q Nor of the implements on the farm ? A I couldn't say as to that, of my own knowledge.
Q Well, do you know what Mr. Walker's business at Chetopa was, what he was doing there; why he was there ?
A I know what I think he was there for. I think he was there to educate his children.
Q How many children has he ? A I think six. Yes, six.
Q What are their ages ? A The eldest one must be fourteen, and eleven, nine, seven, and so down.
Q Well, do they go to school ? A Yes sir, I think all go but one.
Q Do they have good schools in Chetopa ? A We think so.
Q What have they got on the place down there about fifteen or sixteen miles from Chetopa, in the way of scholls ?
A I don't know personally; only from reputation.
Q You have been through there ? A Yes sir.
Q Did you ever see any schools ? A No sir, not the last time I was through there; I understand they have built some recently.
Q Country schools ? A Yes sir subscription schools.
Q Out in the country ? A Yes sir.
Q Now, Mr. Bell, you said they would go away, Mr. and Mrs. Walker, how long would they be gone ?
A I will say from two weeks to six weeks. Two weeks at a time, and probably about six weeks at a time.
Q You can't say but that they were away longer than six weeks at a time ? A No sir, I can't say positively.
Q Now, when did your schools close, in Chetopa, for the term ?
A In the summer, about the latter part of April or first of May.
Q Well, as to their being away from there, would they be away more during the summer than at any other time ? A Oh, yes sir.
Q They would ? A Yes sir. That is, the family would.
Q You noticed that ? A Oh yes.
Q Mr. Walker had no other enterprise, or other way of making money at Chetopa, excepting the sprinkling business ? A That's all.
Q They don't sprinkle the streets except in the summer ?
A I believe from the first of April to the first of November.
Q Well, did he sprinkle the streets, or did he have an interest in the sprinkling contract ?
A He didn't drive the wagon but very little.
Q Do you know how much that was worth a year; that sprinkling contract ? A Well now, I don't really know; they solicit from each one.
Q How many people are there in Chetopa ? A Twenty three or four hundred.
Q And he sprinkles the streets from April to November ?
A Yes sir.
Q He sprinkles the business streets ? A Yes sir, and some of the residence streets a little, but not much.

J. H. DUNN, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings:

Q What is your name ? A J. H. Dunn.
Q You live at Chetopa, Kansas ? A Yes sir.
Q How old are you ? A I am going on sixty four years old.
Q Do you know Alexander Walker, the applicant ? A Yes sir.
Q How long have you known him ? A Well, my memory is that I knowed him along about eight or nine years.
Q Do you know his wife ? A I never spoke to his wife; I have seen her.
Q You know her when you see her ? A I think I would.
Q Has h he some children ? A Yes sir.
Q Do you know them ? A No sir, I wouldn't know them.
Q You know that he has children ? A Yes sir.
Q Do you know where he and his family live ? A Yes sir.
Q Where do they live ? A In t he suburb of town.
Q In Chetopa, you mean ? A Yes sir.
Q In Kansas ? A Yes sir.
Q How long have they been living there ?
A Well, my best recollection is that they have been living there along about six or seven years.
Q Do you know if he runs a water wagon there in Chetopa ?
A Yes sir.
Q How long has he been running that ?
A I believe about four years.
Q That's your best judgment ? A Yes sir.

Examined by Mr. Smith:

Q Mr. Dunn, he just sprinkles the streets ? A Yes sir.
Q Who was with Mr. Walker in that contract, do you know who was interested with him ? A His brother I believe.
Q What was his brother's name ? A Jim Walker, I believe.
Q They don't sprinkle the streets except from April to November ?
A About from five to six months.
Q That's just the business portion of the town ? A Just the business portion.
Q There are not but twenty five hundred or three thousand people there ? A In the neighborhood of twenty three hundred I guess; it varies there.
Q Do you know what he made out of the street sprinkling for that time ? A Well, there's very little made at it.
Q How much ? Three or four hundred dollars a year; a season ?
A Oh yes sir, there would be that much.
Q That is all the business Mr. Walker had there in Chetopa ?
A Yes sir.
Q Well, he lived off his farm didn't he ? A That's the information I get, that he lives off his farm.
Q Would you see stuff coming up there from off his farm ?
A No sir.
Q Well, during this time, how far did you live from Mr. Walker.
A About a half a mile.
Q Now he and his wife were away from Chetopa a good deal of the time weren't they ? A Well, I don't know about his wife, I know about him. He is away from a week to three weeks at a time. I only speak from what I know. I couldn't be in Chetopa all the time without I would see him. He couldn't be there any time without I would see him.
Q How often would you see his wife ? A In fact I never seen her but once or twice.
Q Well then you don't know where she was ?

A She was at this house where they lived at, but I don't know where she stays. I was out to his wife once or twice and saw his wife there.
Q Once or twice during these several years ? A Yes sir.
Q During the times you weren't there, x you don't know where she was ?
A No sir.
Q You don't know how much time she spent on this farm in the Cherokee Nation ? A No sir.
Q They have children going to school there ?
A I knew it from hearsay that they were going to school there.
Q How long do your schools run in Chetopa ?
A From seven to eight months.
Q They close for the term about what month ?
A Well, they are closed about four months in the hot weather.
Q Well, then, four years ago this summer that is just passed, did you see Mrs. Walker during that summer ? During the summer of 1898 ? A No sir.
Q You don't know where she was then ? A No sir.
Q Well now, Mr. Dunn, have you ever been down on this farm of Mr. Walker's ? A No sir.

FRED DUNCAN, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings

Q Your name is Fred Duncan ? A Yes sir.
Q Your post office is Chetopa, Kansas ? A Yes sir.
Q Do you know Alexander Walker ? A Yes sir.
Q How long have you known him ? A I have known him about seven or eight years.
Q Has he got a wife ? A Why yes sir, still I wouldn't know her if I saw her.
Q You know that he is a man of family ? A Yes sir.
Q Some children ? A Yes sir.
Q Do you know where he lives ? A Yes sir.
Q Where ? A In Chetopa.
Q How long have they been living there ?
A They have been living there four or five years to the best of my knowledge.
Q Were you in the Phillipine Army ? A Yes sir.
Q Were they living there when you left on the 4th of July, 1899 ?
A Yes sir.
Q How long had they been living there before that time ?
A As well as I can recollect, about two years.
Q Are they living there now ? A Yes sir.

Examined by Mr. Smith:

Q How do you know they were in Chetopa on the 4th of July, 1899 ?
A I don't know that they were in town, but they were living there,
Q Then you don't know where they were ?
A They were there to the best of my knowledge. They claimed they were living there at that time.
Q That's just what you have heard then ?
A Well, not especially right in town. Well, yes I will say they were there.
Q What makes you say it ? A They were living there, or supposed to be living there.
Q How do you know ? A Well, I know they were.
Q Well how ? A Because I have been to Mr. Walker's house.

Q Were you there on the 4th day of July, 1899 ?
A Yes sir, I was there in Chetopa.
Q Were you at his house then ? A No sir.
Q How do you know he was living there ? A I know he was, he was a few days before that.
Q How long had he been there ? A Two or three years before.
Q They had never been away from there ?
A Probably he had and probably his family had.
Q We want to know what you knew about it.
A Well, they had been making that their permanent home.
Q And hadn't been away ? A No sir.

Mr. Smith: That answer is objected to as not being responsive to the question, and states a conclusion of law.

Mr. Hastings: The Cherokee Nation has no objection to the counsel for the other side recording his explosions.

Examined by Mr. Smith:

Q Well now, you say they were living there on the 4th day of July, 1899, you swear to that, do you ?
A Yes sir, I will swear to that.
Q And there weren't either one of them at that time down on the farm in the Cherokee Nation, you will swear to that, will you ?
A I will swear that neither one of them was making their permanent residence down there.
Q Were you at their farm ? A No sir.
Q Well how do you know ? A I don't know.
Q But you will swear to it anyhow ? A Yes sir.
Q Well, Mr. Duncan, how often did you see Alexander Walker in Chetopa ? A Well, I would probably see him every time I would go up there.
Q Every time you would go up there you would see him ?
A Yes sir.
Q And you went about how often ? A I would say an average of once a week.
Q You never missed seeing him a time during these seven years ?
A I probably would miss seeing him, yes sir.
Q Did you ? A May be one week at a time, yes sir.
Q Did you ever miss seeing him over a week at a time ?
A Not to the best of my knowledge.
Q You never missed seeing him a week at a time, is that your best judgment ? A Well no, I can't say that I missed him any week.
Q Well, what do you say, that you saw him every time you went ?
A Well no, I can't say that.
Q You didn't know his wife, did you ? A No sir, wouldn't know her if I saw her.
Q You have been to his house ? A Yes sir.
Q Did you see her ? A No sir.
Q Where was she ? A I don't know.
Q Then you don't know where she was if you didn't see her ?
A No sir, I didn't see her, for I went there on business.
Q How many times have you been to his house ?
A Two times I have been there.
Q When ? A I can't say what year it was at all.
Q While they were living there in Chetopa, Kansas, did they ever go away from there ? A Not permanently that I know of. Not to stay away permanently, say two or three years at a time.
Q What is that ? A Not to stay away any number of years at a time.
Q Did they go away at all ? A Not that I know of.

Q Did you ever go down to their farm ?
A I never was at Mr. Walker's house on the farm, no sir.
Q Have you ever been on the farm ? A I wasn't on his farm, no sir.
Q Where have you been in the neighborhood of his farm ?
A I own a place where I can see his house from my house.
Q Have you never been on his place ?
A No sir, I never had no occasion to go on his place.
Q You never saw Mr. Walker down on his place, I suppose ?
A I never did.
Q Did you live down there on that place ? That place you said you owned near his ? A No sir. I had another place where I lived.
Q How far did you live from there ? A About fifteen miles.
Q You owned this place next to him ? A Yes sir.
Q How often would you go up there ?
A Once every six months maybe.
Q Sometimes it would be a year or two wouldn't it ?
A Yes sir, I suppose from the time I first bought it and got possession of the place I missed a year being there.
Q At other times there would be a year and a half that you wouldn't be on it ? A No sir, I never did go eighteen months but what I went there.
Q How long were you in the Phillipines ?
A I was there nineteen months.
Q You didn't come from the Phillipines to visit there ?
A That's the only time I ever missed being there that long. Outside of the nineteen months I was in the Phillipines, that's the longest I ever was away from there.

The Commission: This case is continued, by agreement, until December 2, 1902.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 11, 1902.

B P Jones
Notary Public.

Cher
Supp'l to D 490

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., December 2, 1902.

In the matter of the application of ALEXANDER WALKER, for the enrollment of himself as a citizen by intermarriage, and his wife, MARY WALKER, and his children, E[illegible]LLA, MABEL, CALLIE E., SAMUEL L., EMERY F. and BLANCHE WALKER, as citizens of the Cherokee Nation, of Shawnee blood:

Appearances:
Applicants appear by W. H. Mellette, Esq;
Cherokee Nation, by W. W. Hastings, Esq.

G. D. BOONE, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name? A G. D. Boone.
Q Do you know Alex Walker, the claimant in this case ?
A Yes sir.
Q Do you know whether he voted at Chetopa, Kansas, at any time ?
A He never did.
Q How do you know ? A I watched the registration. If they don't register they can't vote.
Q Do you know why he didn't vote ? A He said he wasn't a citizen, and was a citizen of the Territory, and wasn't a voter in Kansas.
Q Have you heard him appealed to to vote ?
A Yes sir, and I have asked him myself.
Q To vote ? A Yes sir.
Q And he wouldn't do it ? A Yes sir, because he was a citizen of the Cherokee Nation.

Examined by W. W. Hastings:

Q How long has he and his family lived up there ?
A Six or seven years.

By Mr. Mellette:

Q During the time he was staying up there, where was his work; where did he carry on his business principally ?
A I guess he had some business there he carried on.
Q The sprinkling business ? A Yes sir, that's all I ever knew him to do.
Q Who was engaged with him in that business, do you remember ?
A I don't know, I hardly ever saw him riding the wagon himself; there was always somebody else riding it.
Q Have you ever been down to his farm in the Cherokee Nation ?
A Yes sir.
Q Ever see him there ? A Yes sir.

JAMES PAYTON, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A James Payton.
Q Where do you live ? A I live at the present time over at Miami.

Q Are you acquainted with Alex Walker ? A Yes sir.

Q Are you acquainted with the place belonging to him in the Cherokee Nation ? A Yes sir.

Q When did you first become familiar with that place ?

A Six or seven years ago.

Q Did you live on it ? A Yes sir.

Q Who did you rent it from ? A Mr. Walker.

Q Well, what arrangement was made about reserving any part of the premises ? A Why when I rented the place from Mr. Walker, he never would rent it to me only for one year at a time, and then he reserved two rooms in the house; you see that's a large house.

Q How many rooms ? A About eight.

Q Did he have furniture ? A Yes sir.

Q They were furnished ? A Yes sir, always.

Q How much of the time has he stayed there during the last six or seven years while his wife and children have been in Chetopa ?

A Why he has been there principally all the time.

Q What does he do there ? A He farms there, and has every year for the last six or seven years.

Q He has had a crop in there every years ? A Yes sir.

Q You mean he has put it in individually ?

A Yes sir, he worked some himself, and hired some of it worked. He done part of the work himself, but he has had a man there too, of course; it's a large farm and the renters he had on it didn't farm all of it, and he farmed the rest of it himself.

Q Q Well, do you know what his family were staying at Chetopa for, what was the object ? A A The object was going to school.

Q To educate the children ? A Nothing more than that.

Q Would the family ever come back to the place ?

A Always when they didn't have school.

Q His wife and children were there all the time when they didn't have school ? A Yes sir, all through vacation, and everything of that kind they was always down there at the place.

Q Well, is there any school there about the place ?

A Nothing to amount to anything. They have got a school house there but they x very seldom have school in it.

Examined by Mr. Hastings:

Q There is a school house there ? A Yes sir.

Q What do they call it ? A High prairie.

Q Who lives on his place now ? A My son.

Q Where was this man living when you first knew him ?

A He had been living on the place.

Q At the time you moved on the place where was he living ?

A So far as that's concerned-----

Q Don't try to evade it, where was he living, where was his family?

A You mean the time I rented the place ? Why his family was up x at Chetopa.

Q Did they have a house up there ? A I suppose they did.

Q Don't you know he owns his own home at Chetopa ?

A Well now I will tell you, I have heard just like this exactly, I have heard that he inherited this home through his wife; that is, h his wife's father owned the place up there, and when he died--now I don't know whether this was all true, but I went on the place afterwards.

Q His wife and family have lived practically all the time up there except occasional visits to the place ? A No sir, I don't think so.

Q How much time has he ever moved down and kept house on the place since 1896 ? Have they ever kept house there since 1896 ?

A Yes sir.

Q When ? A Well now, to just exactly describe that time, I can't just exactly do it.

Q Where ? A In the same house.

Q In the same house with your son ? A Yes sir.

Q They brought their own cooking utensils there ?

A They had them there, didn't never take them away.

Q How long did they stay there ? A As much as two months at one time.

Q What year was that ? A I can't tell you.

Q Did they do that more than one time ? A Yes sir.

Q When did they do it another time ? A I don't know; I can't tell; since I have been on the place, but to be positive about dates and such things, I can't do it.

Q When did you leave the place ? A About a year ago. About eighteen months ago.

Q Are you a citizen ? A No sir.

BERT PAYTON, called as a witness, being duly sworn by the Commission, testified as follows:

Q What is your name ? A Bert Payton.

Q Where do you live ? A I live on Mr. Walker's place.

Q Alex Walker's ? A Yes sir.

Q How long have you lived there ? A Why 6 or 7 years.

Q Who did you first go there with ?

A Why I went there with my father.

Q Is your father the James Payton who has just been on the stand ? A Yes sir.

Q Where has Mr. Walker been staying during the last six or seven years ? A Most of the time on the farm.

Q What has he been doing ? A Why he has been improving the place and farming.

Q Has his family been there ? A More or less yes sir.

Q Has he any rooms reserved in the house ? A Yes sir.

Q How many ? A Two.

Q When his family would come downthere would they do their own cooking ? A Yes sir.

Q Are you still living on the place ? A Yes sir.

Q Are the rooms still reserved there ? A Yes sir.

Q Has Mr. Walker any stock or things of that kind on the place ?

A Yes sir, and has had ever since we have been there. There never has been a time but what there has been stock there.

Examined by Mr. Hastings:

Q Where does his wife and children now stay ? A They stay part of the time at Chetopa, when they are attending school, and part down there.

Q How long at any one time have they stayed on the place since you have been there ? A Two or three months at a time.

Q When ? A I can't tell the dates.

Q What year ? A Off and on ever since I have been there.

Q Do you know any one year ? A Yes sir.

Q When ? A Last fall during the oat harvest.

Q How long did they stay then ? A Well I can't tell just exactly the length of time.

Q Did they leave their furniture in Chetopa ?

A Their furniture is on the place.

Q Don't they have some furniture in Chetopa ? A Yes sir.

Q They didn't move that away ? A No sir.

Q They are keeping it now ? A Yes sir.

Q When people inquired for Mr. Walker down there where did you direct them to go to find him ?

A Why he is there most of the time.

Q Did you tell them just to stay there that that's the place to find him ? A They generally stayed around there.

Q How long did his family stay there last summer ?
A I can't say just how long.
Q How long did they stay there two summers ago ?
A Part of the time.
Q How long did they stay there three summers ago ?
A I can't tell you, but they are there more or less all the time.
Q How long were they there four summers ago ?
A Why I can't tell you anything about that.
Q They never gave up their house in Chetopa ? A No sir.
Q How do you understand they got their furnished house in Chetopa ? A They inherited it. They haired it.
Q How ? A They inherited it.
Q What became of the furniture on the farm ? A It's there. If anybody want to go there and look at it I will shew it to him. His fruit is right there in the cellar at the present time.
Q His cooking utensils and all have been there all the time ?
A Yes sir.

EDWARD S. LANE, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by Mr. Mellette:

Q What is your name ? A Edward S. Lane.
Q Do you know Alex Walker, the claimant ? A Yes sir.
Q Do you know anything of his voting in the Cherokee Nation within the last few years ? A I knew of him voting twice, but I can't state just the time, but once. One time he voted on that one hundred and twenty acre treaty.
Q In January, 1899 ? A Yes sir.
Q You remember of his voting in January, 1899 ? A Yes sir.
Q You remember of his voting in the Cherokee Nation at another time ? A Yes sir.
Q When, was that before that ? A Yes sir, but I can't just tell the time.
Q Was his vote challenged for any reason at the times he voted there in the Cherokee Nation ? A No sir.

Examined by Mr. Hastings;

Q Well, Mr. Lane, where has he and his family been living for the past six or eight years ? A Up in the State.
Q In Chetopa, Kansas ? A Yes sir.
Q He has been living there all the time with his family ?
A Yes sir.
Q How far do you live from his farm ? A I never was there, but it is about fifteen miles.
Q Do you know if he keeps house in Chetopa ? A I never was at his house.

By Mr. Mellette:

Q Do you know anything about his hauling feed or anything of that kind up to Chetopa ? A Oh yes sir, I see him coming backwards and forwards.
Q What does he haul ? A I have seen him hauling lumber once, he said he was going to build a porch.
Q On the Cherokee farm ? A Yes sir.
Q Hauling lumber from Chetopa down there ? A Yes sir. And then I have seen him hauling corn.

ALEXANDER WALKER, the applicant, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. H. Mellette:

Q What is your name ? A Alexander Walker.
Q Are you the claimant in this case ? A Yes sir.
Q Mr. Walker, did you ever vote in Kansas ? A No sir.
Q Why not ? A Because I was a recognized citizen of the Cherokee Nation.
Q Who is your wife ? A Mary Walker.
Q What was her name before you married her ? A Mary Garrett.
Q What was her blood ? A Shawnee.
Q I have here a marriage license issued by the Clerk of Delaware District, Cherokee Nation, authorizing your marriage to Mollie Garrett, is Mollie and Mary Garrett the same person ?
A Yes sir.
Q Was Robert Garrett a brother of your wife Mary Garrett ?
A Yes sir.
Q Have you voted in the Cherokee Nation within the last few years ?
A Yes sir at every election ; I don't think I ever missed one for six or seven or eight years; ever since I have been a voter.
Q You have held your residence in the Cherokee Nation ?
A Yes sir.
Q And voted in the Cherokee Nation ? A Yes sir.

By the Commission:

Q Is your wife's father named Samuel Garrett ? A Yes sir.
Q Has she a brother named Richard ? A Yes sir.
Q And one named George ? A Yes sir.

The Commission: There appears opposite # 382 of the list of the members of the Shawnee tribe of Indians who removed to and located in the Cherokee nation prior to the 10th day of June, 1871, within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation or tribe of Indians.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this December 6, 1902.

B C Jones
Notary Public.

Cherokee D #490

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mary Walker and minor children, Estella, Mabel, Callie E., Samuel L., Emery F. and Blanche Walker, as Cherokee citizens of Shawnee blood:

D E C I S I O N

The record in this case shows that on October 2, 1900, Alexander Walker appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his wife, Mary Walker, and minor children, Estella, Mabel, Callie E., Samuel L., Emery F. and Blanche Walker, as Cherokee citizens of Shawnee blood. The application also included the said Alexander Walker, husband of the said Mary Walker, who claims right to enrollment as a citizen by intermarriage of the Cherokee Nation, but the status of such persons not being fixed at this time, the said Alexander Walker is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 1, October 27, November 10 and December 2, 1902. A copy of the testimony taken in the matter of the application of Frederick Garrett et al., Cherokee D 495, at Vinita, Indian Territory, October 23, 1901, is filed with and made a part of the record herein.

The evidence shows that the applicant, Mary Walker, is a Shawnee Indian and is identified under the name of Mary Garrett on the register of names of Shawnee Indians who moved to and located in the Cherokee Nation, Indian Territory, within two years from the 9 day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians on June 7, 1869, and approved by the President of the United States June 9, 1869.

The evidence further shows that the applicants, Estella, Mabel, Callie E., Samuel L., Emery F. and Blanche Walker, are the minor children of the said Mary Walker. An examination of the tribal rolls in possession of the Commission shows that Mary Walker and her four elder children, Estella, Mabel, Callie E. and Samuel L., are identified on the Cherokee-Shawnee pay roll of 1897 and that all of the applicants herein, except the youngest child, Blanche, are identified on the Cherokee census roll of 1896. The said Blanche Walker is duly identified by a birth affidavit made a part of the record herein.

The evidence further shows that the applicant, Mary Walker, has continuously maintained her residence in the Cherokee Nation ever since she located there, as aforesaid. It appears that from 1875 or 1876 to 1887, during which time the said Mary Walker was a minor, that she lived in the State of Kansas with her father, but it is also shown that her father owned personal property in said Cherokee Nation and voted therein during all of said time from 1875 to 1887. It is

Ch. D #490

also shows that since 1893 or 1896, the said Mary Walker has lived most of the time in Chetopa, Kansas; but it further appears that during all of this time the applicant, together with her husband, has owned a farm and improvements thereon in the Cherokee Nation.

The residence of all the minor applicants herein has been the same as that of their mother, the said Mary Walker, since birth.

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D 937 (I. T. D. [illegible]), that the said Mary Walker, Estella Walker, Mabel Walker, Callie R. Walker, Samuel L. Walker, Henry F. Walker and Blanche Walker should be enrolled as Cherokee citizens of Shawnee blood, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this SEP 18 190

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COMMISSIONERS
TAMS BIXBY,
THOMAS B NEEDLES,
C R BRECKINRIDGE,
W. E. STANLEY.

ALLISON L AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D-490

Muskogee, Indian Territory, September 22, 1903

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 18, 1903, granting the application of Alexander Walker for the enrollment of his wife, Mary Walker, and his minor children, Estella, Mabel, Callie E., Samuel L., Emery F. and Blanche Walker, as citizens of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-32

IN THE MATTER OF THE APPLICATION OF

Alexander Walker et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

[illegible]

CHEROKEE D. 490

Alexander Walker et al

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 5 1900

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 21, 1900.

In the matter of the application of Albert J. High for the enrollment of himself, wife and children as citizens of the Cherokee Nation; said High being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your name, please? A Albert J. High.
Q How old are you? A 48 .
Q What is your post office? A Rustle Creek.
Q What is your district? A Cooweescoowee.
Q Who is it you want to have put on the roll? A My wife, two children and myself.
Q Are you Cherokee by blood? A No, sir.
Q White man? A Yes, sir.
Q Your wife Cherokee? A Yes, sir.
Q Show me your marriage license and certificate.

The applicant presents a Cherokee license issued by the Clerk of Delaware District, September 14, 1889, authorizing his marriage to Miss Sarah Fields, a Cherokee citizen. The certificate shows that they were married in accordance with said license on the same date by the Clerk of Delaware District. This is filed herewith

Q Have you lived with your wife ever since you married her in 1889? A Yes, sir.
Q And all the time in the Cherokee Nation? A Not all the time, I lived in Chetopa to school my children, but kept my home here all the time.
Q How old is your wife? A 43.
Q Was she born in the Cherokee Nation? A Yes, sir.
Q She lived here all her life? A Yes, sir.
Q What is the name of her father? A Thomas W. Fields.
Q Dead or alive? A He is alive.
Q Her mother's name? A I think it is Martha.
Q Dead or alive? A Alive.
Q Give me the names of your children? A Eddie C.
Q How old is that child? A 13.
Q The name of the next child? A William J.
Q How old is he? A He is seven years old.
Q Both living now, are they? A Yes, sir.

(It develops that applicant's wife has been married before.)

Q What was her other husband's name? A Monroe Wilson.

1896 enrollment; page 176, #2220, Sarah E. High, Cooweescoowee.
1896 enrollment; page 309, #623, Albert J. High, "
1896 enrollment; page 176, #2221, Eddie C. High, "
1896 enrollment; page 176, #2222, William J High, "

Q Your wife was married before you married her? A Yes, sir.
Q Did she have a divorce from her husband? A Yes, sir.
Q Have you got a copy of the decree of that divorce? A I have got that to show.

The applicant files a postal card from the Clerk of Delaware district, dated September 17, 1889, stating that Mrs. Sarah Wilson was divorced at the last term of Court. This is filed herewith.

Q This here says that your wife's name was put down as just Mary Wilson? A Yes, sir.
Q And that that was a nickname, that right? A Yes, sir.
Q She says that some of her neighbors put it down that way, is that right? A Yes, sir.
Q Says the census taker was going from house to house and did not come of her house? A No, sir.

Com'r Breckinridge:--The applicant applies for the enrollment of himself, his wife and two children: After considerable effort his wife has not been identified on the roll of 1880, and the latest testimony relates that she may be on that roll of Mary Wilson. She is identified on the roll of 1896, and the applicant states that

She has lived in the Cherokee Nation all her life. For the further consideration of the rolls, the application for her enrollment will, at present, be placed upon a doubtful card. It seems that she was married prior to her present marriage, and the applicant is required to produce a copy of her decree of divorce from her former husband. He is shown to have been married to her in accordance with Cherokee law in 1879. He is identified with her on the roll of 1880, and states that he has lived with her in the Cherokee Nation ever since their marriage. To await the further evidence indicated, the applicant will, himself, be placed upon a doubtful card as a Cherokee by intermarriage. The two children are identified on the roll of 1896 They are living at this time. To await the further identification of their mother indicated in the decision, they will, at present, be placed upon a doubtful card as Cherokees by blood.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 5th day of ~~September~~ October, 1900.

Commissioner.

D491

Albert J. High

Cherokee D-481.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 7, 1903.

In the matter of the application of Albert J. High for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Sarah E., and children, Eddie C. and William J. High, as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Albert J. High.
Q What is your age? A Fifty years old.
Q What is your postoffice? A Chetopa, Kansas.
Q Are you the same Albert J. High that made application to this Commission for enrollment as an intermarried citizen on October 2, 1900? A Yes sir.
Q What is your wife's name? A Sarah E.
Q Is she a citizen by blood of the Cherokee Nation? A Yes sir.
Q When were you married to your wife, Sarah E.? A In 1890.
Q Were you ever married before you married, Sarah E.? A No sir.
Q Was she ever married before you married her? A Yes sir.
Q How many times? A Just once.
Q Was her first husband living or dead when you married her? A He was living but he married before she and I married.
Q Had your wife ever been divorced from him? A Yes sir.
Q Did you file a copy of your wife's divorce when you made your original application? A I can't answer that question; they have the papers.
Q Who has them? A The Dawes Commission.
Q Did you file them with the Dawes Commission? A Yes sir.
Q You are your wife's second husband are you? A Yes sir.
Q She is your first wife? A Yes sir.
Q Have you and your wife lived together as husband and wife from the time you were married in 1890 up until the present time as husband and wife? A Yes sir.
Q You never been separated? A No sir.
Q You never were married to any other woman since you married Sarah E.? A No sir.
Q Living together as husband and wife on the first day of September, 1902? A Yes sir.
Q Have you lived in the Cherokee Nation all the time since you were married to your wife in '90? A Not all the time in the Cherokee Nation.
Q Where did you live? A In Chetopa temporarily.
Q You lived part of the time since you were married to your wife in Chetopa, Kansas? A Yes sir.
Q After you married your wife, Sarah E., when did you go to Chetopa, Kansas, the first time after you married? A I think it was in '94.
Q How long did you stay there the first time? A I stayed from the first of September until the first of March.
Q First of September '94 until the first of March '95? A Yes sir.
Q Did your wife go to Chetopa with you during that time? A Yes sir.
Q You and she lived in Chetopa, Kansas, from September '94 until March '95? A Yes sir.
Q In March '95 did you come back to the Cherokee Nation? A Yes sir.
Q Did your wife come with you? A Yes sir.
Q Did you have any children at that time? A Yes sir.
Q What was its name? A Eddie C.
Q Was Eddie C. in Kansas with you on that trip? A I think so.
Q When you came back in '95 how long did you stay in the Cherokee Nation that trip? A I stayed until the fall, until school commenced again, about the first of September.
Q You stayed until the fall of '95 in the Cherokee Nation did you? A Yes sir.
Q Then [illegible] went back to Chetopa in the fall of '95? A I think so.

Q How long did you stay in Chetopa that trip, your second time after you went back in the fall of '95? A I don't just remember just how long we did.

Q Did you stay a month? A I think we stayed — we generally moved in the fall and went back in the spring.

Q Did you stay there until the spring of '96? A Yes sir.

Q Then in the spring of '96 you came back to the Cherokee Nation did you? A Yes sir.

Q What time in the spring? A About the 18th of March.

Q That was in the spring of '96? A Yes sir.

Q How long did you stay in the nation on that trip, did you stay there until next fall? A Yes, I think I did.

Q That will take you to the fall of '96; then you went back to Chetopa, Kansas? A Yes sir.

Q And did you stay there until the spring of '97? A I think so.

Q Then you came back in the spring of '97 to the Cherokee Nation?
A Yes sir.

Q Then did you go back to Chetopa again in the fall of '97? A Yes sir.

Q And then you stayed there until the spring of '98 did you? A Yes sir.

Q Then you came back to the Cherokee Nation in the spring of '98?
A Yes sir.

Q What time in the spring did you come back? A I think about the first of March.

Q Then you stayed until fall again? A Yes sir.

Q You went to Chetopa in the fall of '98? A Yes sir.

Q Well you kept that up all the time up to the present time, backward and forward that way? A Yessir.

Q Now Mr. High, when you would go to Chetopa, Kansas, in the fall what did you do up there? A I didn't do much of anything myself. I would go backward and forward to the nation, to my farm and see after my stock.

Q Did you still have your farm in the Cherokee Nation after you had your family in Kansas? A Yes sir, I reserved the place for myself.

Q And in the spring and summer you brought your family back on the farm? A Yes sir.

Q What took you up there in the fall? A They have schools up there, to school my children.

Q How many children did you have when you first went up there? A I had two. They were small and they weren't old enough to go to school.

Q What took you up there when you first went up? A The oldest boy needed schooling.

Q You didn't send him to school the first year you went up there?
A Yes, I think so.

Q You didn't send this youngest one to school up there? A No sir.

Q It was only about a year old then? A He was two years old in the strip payment I think, the smallest one.

Q It wasn't large enough to go to school? A No sir.

Q So the first time you went there was to send the oldest child to school? A Yes sir.

Q How far was your farm from Chetopa, Kansas? A About eight miles southwest.

Q They had no schools in the Cherokee Nation? A They had some, but didn't amount to anything. It wasa good way to go and it was too far to send theboy.

Q When you went to Chetopa Kansas, in the fall and winter did you rent a house or buy a house there? A I bought a little property there.

Q You fixed it up and kept house there and put furniture in there?
A I didn't have much furniture. I had a little, I didn't buy like some fellows.

Q You had it so you could live in the house? A Yes sir.

Q And you did live there? A Yes, and I said I wouldn't live in town unless I had property of my own.

Q And you still own that property? A Yes sir.

Q And you have owned it all the time since '95? A Yes sir.

Q And you get all your mail there? A I had my mail come to Russell Creek, it was handy for me because I was living there in the nation, two and a half miles west.

Q You didn't rent that place out in Chetopa, Kansas when you came back to the Cherokee Nation? A Some times I did as we could not get good renters.

Q You would lock it up and come back; when you come back to the nation in the spring what did you do with your stuff that you had in the house; you had a cook stove and a few chairs? A Yes sir.

Q And some other household stuff? A Yes sir.

Q What did you do with that stuff? A We brought it back to the Cherokee Nation.

Q Then when you went back in the fall of the year what did you do with it, take it back to Chetopa, Kansas? A Yes sir.

Q So you would move it back and forward every time you moved? A Yes sir, we would just take enough to make out what we could down there.

Q How big a town is Chetopa, Kansas? A About 2500.

Q They have schools there? A Yes, they have good schools.

Q Public schools? A Yes sir.

Q You didn't have to pay any tuition? A No sir.

Q You sent them as citizens of Chetopa? A No sir, but I paid taxes there.

Q Did you vote up there? A No sir, my interest is in the Cherokee Nation, I didn't vote up there for it would have knocked me out in the Cherokee Nation.

Q Did you ever vote for Congressman or state officer up there at all? A I never voted for anything, I wouldn't vote.

Q How much of the time during the winter did you spend yourself back on the farm in the Cherokee Nation? A I would come back once every week and see that things are all right.

Q Once or twice every week or two? A Yes sir, to see the ball a rolling.

Q Did you have your farm rented out while you were in Chetopa? A Yes sir, I have three houses and I reserved one for myself.

Q When you came back to the Cherokee Nation in the summer you moved in that house that you had reserved? A Yes sir.

Q You kept house there, you and your wife and children stayed in that house? A Yes sir.

Q What would you do in the summer? A I farmed a little myself.

Q How much farming did you do there in the summer? A I farmed this year forty acres.

Q How much did you farm in '95? A About the same.

Q How much did you farm in '98? A I never marked it down, but I farmed a little every year.

Q As a matter of fact you claim that you never had a home up there in Chetopa, don't you? A No sir, I told you a while ago I bought a home there.

Q So you claim that you had a home in Chetopa all the time and a home in the Cherokee Nation all the time? A Yes sir.

Q You had two homes? A Yes sir.

Q You lived in both places? A Yes sir, off and on.

Q You lived about half the time in the Cherokee Nation and about half the time in Chetopa? A Yes sir.

Q Did you do any business at all in Chetopa while you were there?
A No sir.

Q All these seven years you have been there you never did any business? A I had to spend money to live.

Q You didn't actually go into any business at all there? A No sir.

4-Albert J. High.

Q What did you do all the time, you say you only came back to the farm once every week or two, did you just loaf around town all the time?
A I never loafed, I stayed around the place; I am always on the move around the [illegible].
Q Now your wife and your children since 1884, their residence had been the same as yours? A Yes sir.
Q They lived wherever you lived since 1884? A Yes sir.
Q And what is true of you is true of them? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger.

Subscribed and sworn to before me this 29th day of October, 1902.

B. C. Jones
Notary Public.

Albert J. High

29491

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT [illegible] 1900

Department of the Interior,
Commission to the Five Civilized Tribes,
Claremore, I. T. October, 31st 1900.

In the matter of the application of Henry B. Wilson for enrollment as a [illegible] citizen. He being first duly sworn testified before the Commission as follows:

Q What is your name? A. Henry B. Wilson.
Q How old are you? 43.
Q What is your post office? A. Blue Jacket, I. T.
Q Do you live in Cooweescoowee District? A. Yes sir.
Q Who do you want to have enrolled? A. Just myself.
Q Are you a Cherokee by blood? A. No sir.
Q Let me see your marriage license and certificate.
Applicant presents a [illegible] license issued by the Clerk of Delaware District, March 24th 1880, authorizing his marriage to Sarah M. Fields, and the certificate shows that they were married by the clerk of the district. The date of the certificate is lost, but the endorsement shows that the application was recorded on the 26th of March 1880.
Q Are you on the roll of 1880? A. Yes sir. (Then you can keep this marriage license and certificate.)
Q Your wife, Sarah M. Fields, is she living? A. Yes sir.
Q Are you living with her? A. No sir.
Q When did you seperate from her? A. She left me in 1881.
Q Have you ever married since she left you? A. No sir.
Q Have you continued to live in the Cherokee Nation since 1880? A. Yes sir, ever since.
Q Was you divorced from her? A. No sir.
Q How did she happen to leave you? A. Just pulled out.
Q Have you ever been denied the right to enrollment by the Cherokee authorities since? A. No sir.
Q Did you ever apply to the Dawes Commission for enrollment since? A. No sir this is the first time.

1880 roll, page 197, No 3140, Abere Wilson, Cooweescoowee, Dist.

Q Were you permitted to enroll when the census roll was taken in 1896, four years ago? A. Yes sir.
Q You have not lived with any other woman since your wife left you in 1881? A. No sir.
Q How did she leave you? A. Just left and went to her fathers and I staid where I was and am living there yet.
Q Do you care to give any reason for her leaving you? A. I have never been able to find out.
Q Has she ever married since she left you? A. Yes sir she is supposed to be married.
Q Who did she marry? A. A fellow named High.
Q Is he living? A. Yes sir.
Q Is he a white man? A. Yes sir.
Q What is his full name? A. Albert High, I think.
Q I notice on that marriage license that you have there, that there is marked " Exhibit 'C' and Exhibit "B" "—— A. I dont know anything about it.
Q Has this never been used in any legal proceeding? A. I dont think it has——I dont know.
Q Never has been used in any court proceedings that you know of? A. No sir.
Q This has always been in your possession has it not? A. Yes sir it has been in my possession a good many years.
Q And it has never been used in any Court proceedings that you know of? A. No sir I dont know anything about it.
Q I notice that part of this paper here containing license and certificate has been torn off apparently? A. It looks as if it had been torn.
Q Here is a postal card that was filed here by your former wife, addressed to Mrs. Sarah Wilson and signed by the Clerk of Delaware District and dated [illegible] stating " Your [illegible]

granted at the last term of Court, Delaware District. Q There is official evidence that you are divorced from that woman. A. It is the first I ever knew about it.
Q Was no summons served on you? A. No summons, or notice in any shape or fashion.
Q Did they ever call you Monroe? A. Yes sir but it is not my name.

1880 roll, Page 197, No 3150, Mary Wilson, Coowescoowee District

Q Have you lived at home and all by yourself since your wife left you ? A. No sir.
Q Who is it that you have been living with? A. Been living with Frank Boyd mostly
Q You havent raised a family of children by another woman? A. No sir
Q There are no children now in the Territory that claim to be of your family ? A. No sir.
Q And you state now positively that you never received any summons or notification of divorce proceedings on the part of your wife Sarah? A. Never did.
Q And that you never heard that she got a divorce until you heard it now? A. Never heard it until now.

By Cherokee Representative Hastings:

Q Where have you been living since 1880? A. On Cabbin creek.
Q In the Cherokee Nation? A. Yes sir.
Q With whom? A. Frank Boyd
Q Did you ever temporarily reside outside of the Cherokee Nation since 1881? A. No sir.
Q Ever married since then? A. No sir.
Q Ever lived with any other woman as your wife since then? A. No sir
Q Have you ever had any children by any other woman since 1881? A. No sir.
Q You dont know what grounds for divorce were alleged by her? A. N Never heard about it until now.
Q You swear then positively that you have never lived with any woman orm had children by anybody since 1881? A. Yes sir.
Q How long did you live with your wife? A. About a year.
Q Why did you leave her? A. Never left her, she left me.
Q What was her maiden name? A. Fields.
Q What is her fathers name? A. Tormey Fields.
Q Is he living? A. No sir he is dead.
Q Where are you living now? A. Same place that I did when I lived with her, 14 or 15 miles from Vinita, Blue Jacket is my post office.
Q How far from Blue Jacket? A. 7 or 8 miles
Q Why didnt you come to Vinita to enroll? A. I did come there and couldnt get in. I came there and staid two days; you quit before I got in. Thought you were coming to Blue Jacket, but you didnt and I have come here.

By the Commission: THIS MARRIAGE LICENSE and certificate is filed with application.

The applicant is identified [illegible] with reasonable certainty on the roll of 1880 as an intermarried Cherokee. He is a white man, and there filed herewith a Cherokee license and certificate showing his marriage to his Cherokee wife in March 1880. He is not identified on the roll of 1896. He states that he has lived in the Cherokee Nation ever since 1880, and that he and his wife seperated in 1881. He claims that she left him; the evidence shows that she was granted a divorce from him. He states that he has not married since he and his Cherokee wife seperated in 1881, nor lived with any other woman as her husband. Reference is made for the further consider-

Henry B. [illegible] 2

[illegible] of this [illegible] to the application of his wife's present husband, [illegible] his wife and [illegible] to be filed [illegible] the rights of [illegible] in [illegible]

This application will be placed on a doubtful card for further consideration, and the final decision will be made known to the applicant at his post office address.

Chas. von Weise, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes in said proceedings.

Chas von Weise

Subscribed and sworn to before me this the 21st of October, 1900.

Notary Public.

20471

FILED
MAR 5 1902

ACTING CHAIRMAN

D. 401.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

In the matter of the application of Albert J. High for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 12, 1902, that his application for the enrollment of himself, wife and children as citizens of the Cherokee Nation would be taken upfor final consideration by the Commission on the 28th day of February, 1902. The applicant this day, to wit the 28th day of February, 1902, appears in person and by his agent, I. P. Bledsoe.

Applicant represented by I. P. Bledsoe, Chouteau, I. T.
Cherokee Nation represented by W. W. Hastings.

COMMISSION: Is there any statement you desire to make relative to this application?

MR. BLEDSOE: I wish to prove that this Sarah Wilson is the wife of Albert High, and her name is upon the 1880 roll, and also establish the fact that it appears that a divorce was granted, a copy of which we have herewith.

T. J. McGHEE, being first duly sworn, testified as follows:

MR. BLEDSOE: What is your name? A T. J. McGhee.
Q How old are you? A 57, 58 I reckon.
Q Where do you live? A Delaware District, Cherokee Nation.
Q Do you recognize this decree of divorce granted by the Delaware District Court in this case? A Well, let me see it. (Mr. Bledsoe hands witness paper.) Yes, sir, this is a document thatI wrote out.
Q That is your own handwriting while you were clerk of the Court?
A Yes, sir.
Q Done in regular open court? (No response.)
MR. HASTINGS: Do you remember that? A I don't know whether I done it in open court or not.
Q That is your own handwriting? A Whether I did it in open court or not I couldn't say.
Q That is all you know about it isn't it? A Yes, sir, I reckon that that is all I know about it.

A. J. HIGH, the applicant, being duly sworn, testified as follows:

MR. BLEDSOE: What is your name? A A. J. High.
Q How old are you? A I am 50.
Q Where do you live? A Live in the Cherokee Nation.
Q What is your wife's name? A Sarah E. High.
Q Do you know what her name was before you married her? A Sarah E. Wilson.
Q Do you live with your wife now? A Yes, sir.
Q Been living with her continuously since you married her? A Yes, sir.
Q Living in the Cherokee Nation? A Yes, sir.
MR. HASTINGS: When did you marry her? A Married about '85 as near as I can remember.
Q Well, what date? A Seems to me it was in September.
Q What day of September? A I don't just remember.

COMMISSION: Do you submit the case?
Mr. [illegible]: Yes, sir.
COMMISSION: The agent for the applicant and the representatives of the Cherokee Nation present submit the case to the Commission. The same is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

—:;—:;—:;—:;—

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

Cherokee D-491.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Albert J. High for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife, Sarah E. High, and his two children, Eddie C. and William J. High, as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on October 2, 1900, Albert J. High appeared before the Commission at Vinita, Indian Territory, and made application for his enrollment as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife, Sarah E. High, and his minor children, Eddie C. and William J. High, as citizens by blood of the Cherokee Nation. A copy of the testimony taken on October 31, 1900, in the matter of the application of Henry B. Wilson has been filed herewith and made a part of the record herein. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on February 28, 1902, and on October 7, 1902.

The evidence shows that the said Albert J. High was married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, on September 14, 1889, to one Sarah Fields, a citizen by blood of the Cherokee Nation, who is duly identified on the Authenticated Tribal Roll of 1880 under the name of Mary Wilson. The evidence further shows that Sarah Fields had been formerly married to Henry Wilson, and was divorced from him on September 11, 1889. Albert J. High, his said wife, Sarah E., and the two children above named are identified on the Cherokee Census Roll of 1896.

The evidence further shows that Sarah E. High, nee Fields, has resided in the Cherokee Nation all her life, and that, from the time of her marriage to her husband, they have been absent a part of each school year from 1894 until 1902 in the State of Kansas, for the purpose of educating the minor children applicants herein. With the exception of these temporary absences, Albert J. High and his wife, Sarah E., have lived together continuously in the Cherokee Nation from the date of their marriage, up to and including September 1, 1902. The residence of the minor children since birth has been the same as that of their parents.

It is, therefore, the opinion of this Commission that Albert J. High should be enrolled as a citizen by intermarriage of the Cherokee Nation, and that Sarah E. High, Eddie C. High and William J. High should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles
Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

Cherokee D-491.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application of Albert J. High for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his wife, Sarah E. High, and his two children, Eddie C. and William J. High, as citizens by blood of the Cherokee Nation.

O R D E R

-!0!-

It appears from the record in this case that, on December 10, 1902, the Commission rendered its decision, enrolling all the applicants herein as citizens of the Cherokee Nation, and that thereafter, on the 12th day of January, 1903, the Cherokee Nation filed its motion to set aside said judgment and re-open said cause for the purpose of taking additional testimony tending to disprove the rights of the applicants to enrollment as citizens of the Cherokee Nation. The said motion having been considered, it is found that the same is well taken and should be granted.

It is, therefore, ordered by the Commission that the said motion of the Cherokee Nation be, and it is hereby sustained, and the judgment heretofore rendered by the Commission on December 10, 1902, be, and the same is hereby set aside, and that this cause be, and the same is hereby re-opened for the purpose of taking such additional testimony as may be offered, the same to be taken at the office of the Commission in Vinita, Indian Territory, at such time as may be hereafter fixed, upon notice being given by the Cherokee Nation.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby.
Acting Chairman.

T B Needles
Commissioner.

Commissioner.

Muskogee, Indian Territory,

(Signed) W E Stanley
Commissioner.

this MAR 19 1903

Cherokee D-491.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Sarah E. High, et al., as citizens by blood of the Cherokee Nation.

DECISION.

The record herein shows that on October 2, 1900, Albert J. High appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his wife, Sarah E. High, and minor children, Eddie C. and William J. High, as citizens by blood, and for himself as a citizen by intermarriage, of the Cherokee Nation; but as the status of intermarried citizens is not at this time fixed, the rights of Albert J. High to enrollment as a citizen by intermarriage of said Nation, will not now be passed upon. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 28, and October 7, 1902. A copy of the testimony of Henry E. Wilson in re his application, Cherokee D 766, taken at Claremore, Indian Territory, October 31, 1900, is filed herewith, and made a part of the record in this case.

The record further shows that on December 10, 1902, this Commission rendered its decision herein, enrolling said applicants as citizens by blood, and Albert J. High as a citizen by intermarriage, of the Cherokee Nation; that on December 26, 1902, attorneys for Cherokee Nation filed with Commission a motion praying that said case be re-opened; that on March 19, 1903 said motion was granted; and that on August 31, 1904, no further testimony having been offered, this case was declared closed.

The evidence herein shows that the principal applicant, Sarah E. High, is a citizen by blood of the Cherokee Nation, is identified on the Cherokee authenticated tribal roll of 1880, as Mary Wilson, and, with the exception below noted, has continuously resided in the Cherokee Nation since 1880. It appears that during the interval between the years 1895 and 1902, these applicants have, during the school year, resided in Chetopa, Kansas, but it does not appear that their rights to citizenship in the Cherokee Nation have been forfeited thereby. The minor applicants herein are children of the said Sarah E. High, were born since 1880, and have resided with their mother since birth. All the applicants herein are identified on the Cherokee census roll of 1896.

It is, therefore, the order of this Commission that [illegible] [illegible] [illegible] and [illegible] [illegible] [illegible] should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner

Muskogee, Indian Territory,
this MAY 13 1905

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Vinita I. T. December 26th 1902.

In the matter of the application of Albert J. High et al for enrollment as citizens of the Cherokee Nation.

Cherokee D 491.

Motion to re open.

Comes now the Cherokee Nation and moves the Commission to set aside and hold for naught its judgment rendered in this case on December 10th 1902 in order that the Cherokee Nation be permitted to introduce further testimony as to the residence of the applicants in this case to show that the applicants are not entitled to be enrolled as citizens of the Cherokee Nation.

The ~~xxxxx~~Cherokee Nation expects to prove by ______________________ and ______________________ that Albert J. High did not in good faith remove to and settle within the limits of the Cherokee Nation prior to June 28th 1898 and that under the provision of that act:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship"

that the applicant s in this case should not be enrolled.

This motion is not made for the purpose of delay but that justice might be done.

Respectfully submitted,

____

Attorney for the Cherokee Nation.

ATTORNEYS:
W. W. HASTINGS, Tahlequah, I. T.
J. L. BAUGH, Chouteau, I. T.

STENOGRAPHER:
J. C. STARR, Vinita, I. T.

MARSHALS:
JOHN PARKS, Vinita, I. T.
W. B. WYLY, Tahlequah, I. T.

OFFICE OF

Attorneys for the Cherokee Nation

BEFORE THE DAWES COMMISSION, CHEROKEE ENROLLMENT.

Please return this letter with your reply or mention this Number: D.....766

Ft. Gibson, I. T., Sept. 10, 1901.

Mr. B. W. Alborty,
Tahlequah, I. T.

Dear Sir:

Please send us a copy of the Diverce Proceedings between Sarah M. Wilson and H. B. Wilson. Said proceedings was had in Delaware Dist. about 1888 or'89.

These are for the use of the Cherokee nation.

Very respectfully,

Attys. for the Cherokee Nation.

OFFICE OF NEWLY BUILT AND NEWLY FURNISHED

Hotel Wasson.

W. H. WASSON,
Proprietor.

Rate $2.00 Per day. Special rates by the week.

Welch, Ind. Ter., Dec 4 1902

Mr J C Starr

as what I Now off Hige will Say I think his Home has Been in the Nation But Movid up to Kansas in the winter to School his children But has had his Farm Going on in the nation

Respt

W. H. Wasson

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-491.

[illegible]
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Albert J. High for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Sarah E. High, and his two minor children, Eddie C. and William J. High, as citizens by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-241.

MAYOR
L. F. PARKER, JR.
RECORDER
A. F. CHAMBERLAIN
ALDERMEN
J. C. STARR
A. N. GREEN
B. F. FORTNER
W. H. DARROUGH
E. N. RATCLIFF

CITY OF VINITA
Mayor's Office

CITY ATTORNEY
D. H. WILSON
COLLECTOR
J. W. BYRD
ASSESSOR
EARL WALKER
TREASURER
ED SHANAHAN
STREET COMMISSIONER
J. J. SPENCER
MARSHAL
J. F. LEDBETTER

Vinita, Ind. Ter. Dec 20 1906

Mr. C. F. Lonnecker,
Bartlett Kansas
Dear Sir:

Please advise me if a man by the name of Albert J. High ever lived in Kansas at Bartlett and if so when and how long, I would be glad to hear from you by return mail.

Yours very truly, J C Starr

I will say that I do not know any thing of this party I will refer you to J. Callahan of this place as he has been here a long time yo Resp
B F Lonnecker

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT

J. C. STARR, SECRETARY

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

MUSKOGEE, IND. TER.

Vinita I. T. January 8th 1903.

Mr. J. Callahan,
Bartlett, Kansas

Dear Sir:

A man by the name of Albert J. High has applied for enrollment as a citizen of the Cherokee Nation and we understand that he has lived in Kansas for a long time at Chetopa and Bartlett and I wish you would advised me when High lived in Bartlett and about how long he lived there; and did he vote there or pay personal or poll tax.

Yours very truly,

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY

ALLISON AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D-491

Muskogee, Indian Territory, March 20, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of an order of the Commission to the Five Civilized Tribes, dated March 19, 1903, sustaining your motion of January 12, 1903, to reopen Cherokee doubtful case D-491, Albert J. High et al.

Your attention is called to the fact that this order gives you permission to introduce additional testimony at the office of the Commission in Vinita, Indian Territory, upon due notice being given the applicants.

Respectfully,

Chairman.

Enc. M-50

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-491.

Muskogee, Indian Territory, May 13, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated May 13, 1905, granting the application for the enrollment of Sarah E. High et al., as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Incl. L-41.

CHEROKEE D491

Albert J Wright et al.

OCT 16 1907 [illegible]
[illegible] D-1174.

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Cher D 492

DEPARTMENT OF THE I
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Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I. T., [illegible]

In the matter of the application of Nellie Majors for enrollment as a Cherokee by blood; being sworn and examined by Commissioner Breckinridge, she testified as follows:

Q Give me your name, please? A Nellie Majors.
Q How old are you? A 17 years old.
A And married? A Yes, sir.
Q What is your post office? A Afton.
Q In what district do you live? A Delaware district.
Q Who is it you want to have put on the roll, just yourself?
A Yes, sir.
Q Do you apply as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What is the name of your father? A James Henderson.
Q He is dead, is he? A Yes, sir.
Q What is the name of your mother? A Susie Henderson.
Q She is alive, is she? A Yes, sir.
Q Your father was a white man? A Yes, sir.
Q When were your father and mother married? A I don't know.
Q When were you married? A May 18 of this year.
Q What is the name of your husband? A W. N. Majors.
Q A white man, is he? A Yes, sir.
Q Have you a certificate of marriage? A Yes, sir, my mother has it.
(The applicant presents a certificate signed by Geo. N. Wilson, Probate Judge of Cherokee County, Kansas, showing that on the 12th of May, 1900, he united in marriage W. A. Majors and Miss Nellie Henderson. This is satisfactory evidence and it is returned to her.)
Q What were you doing over there in Kansas, just go there to get married? A Yes, sir.
Q You were too young and couldn't marry on this side, that it?
A Yes, sir.
(James Henderson on 1880 roll, page 235, No. 1213, Delaware district. Nellie Henderson on 1896 roll, page 480, No. 1497, Nellie Henderson, Delaware district.)

The applicant is identified on the roll of 1896 as a native Cherokee. Her father is identified on the roll of 1880 as a native Cherokee. In the application of her mother, the application immediately preceding this application, the mother wasn't identified on the roll of 1896, but she established by strong personal testimony the fact of her marriage to her husband, and of her living with him until his death. The mother's application was placed upon a doubtful card, for further consideration, and as the applicant claims through her mother, and her mother's marriage to her father, this application will at present be placed upon a doubtful card. The marriage certificate cited in the testimony establishes the change of name.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this [illegible] day of October, 1900.

Commissioner.

Cherokee D 492

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Nellie Majors for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette of Mellette & Smith, Vinita,I.T?, attorneys for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 12,1902 that this case would be taken up for final consideration by the Commission on the 28th day of February 1902. She this day appears by her attorneys Mellette & Smith, Vinita, I. T., and by agreement with the representative of the Cherokee Nationpresent this case is this day taken up for consideration.

BY MR. MELLETTE: She is a child of the applicants in 494 and we want the marriage license copeied in this case and filed.

BY COMMISSION: It is directed that the marriage license and certificate filed in the case of applicant's father and mother Cherokee doubtful case 494, be filed with and made part of the record in this case.

The attorney for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission based upon the evidence now of record.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

C.D. No 492

Nellie Majors

vs

Cherokee Nation

Copy Brief of
applicants

Kleckett & Sweet
atty. for applicant

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

--:--: IN THE MATTER OF THE APPLICATION OF [illegible] [illegible].:--:--

[illegible] [illegible] ETC.

[illegible] [illegible] the daughter of Susie Henderson, who was enlisted [illegible] [illegible] [illegible] [illegible] Cherokee [illegible] card [illegible] 494, [illegible] [illegible] [illegible] [illegible] the name of Susie Henderson.

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[illegible] [illegible], [illegible] [illegible], [illegible] [illegible] [illegible] Commission [illegible] [illegible] of the [illegible] [illegible] [illegible] case, to file [illegible] [illegible] [illegible] certificate of the marriage of [illegible] mother, [illegible] [illegible], [illegible] [illegible] [illegible] Henderson. [illegible] certificate of [illegible] [illegible] [illegible] [illegible] filed in the case of the said Susie Henderson, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. The record in the case of said applicant's mother, Susie Henderson, shows that the said [illegible] [illegible], the mother of the applicant, was duly and lawfully married to the said James Henderson, and that James Henderson, [illegible] [illegible] applicant, [illegible] [illegible] [illegible] listed upon the same roll. [illegible] [illegible] [illegible] [illegible] certificate herein [illegible], [illegible] [illegible] [illegible] [illegible] the case of this applicant. [illegible] [illegible] from the record in the case of the mother, Susie Henderson, that [illegible] [illegible] [illegible] [illegible] her daughter, Nellie [illegible], [illegible] [illegible] [illegible] the [illegible] [illegible] by reason of the fact that no [illegible] [illegible] the [illegible] of the said Susie Henderson to the said James Henderson was filed to the Commission at the time of the application.

~~[illegible] [illegible] copy of the [illegible] [illegible] the Susie [illegible] [illegible]~~

Respectfully, submitted,

Mellette & Smith

Attorney's for Applicant.

Cherokee D 492

aab

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Nellie Majors as a citizen by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on October 2, 1900, Nellie Majors appeared before the Commission at Vinita, Indian Territory, and then and there made application for her enrollment as a citizen by blood of the Cherokee Nation. Further proceedings were had at Muskogee, Indian Territory, on February 25, 1902, in the matter of said application.

The evidence in this case shows that Nellie Majors is the daughter of James Henderson and Susan Henderson, his wife. James Henderson is identified on the authenticated tribal roll of 1880, and his daughter Nellie was born to him since the preparation of such roll. The applicant was married on May 12, 1900 to W. A. Majors. She is identified on the Cherokee Census roll of 1896.

The evidence further shows that the said Nellie Majors has resided in the Cherokee Nation all her life, and that she was a resident of said Nation at the date of the application herein.

It is, therefore, the opinion of this Commission that Nellie Majors should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, I. T.

this AUG 18 1902

[illegible]

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 492.

Muskogee, Indian Territory, August 18, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 18, 1902, granting the application of Nellie Majors for the enrollment of herself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 9.

12

THE MATTER OF THE APPLICATION OF

Nellie Majors

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony Oct 2 1900.
B. Memo. of application. Oct 2-1900
C Notice of final consideration, 2-28-1902
D Order closing testimony, Feb. 25, 1902
C [illegible]

E Brief of affiant

Decision

Sept 15, 1902 Cancelled and transferred to [illegible]

Cher D 493

Cher D 493

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T., October 2nd, 1900.

IN THE MATTER OF THE APPLICATION OF HENRY GODDARD FOR THE ENROLLMENT OF HIMSELF AND TWO CHILDREN AS CHEROKEE CITIZENS.

The said Henry Goddard, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please.
A Henry Goddard.
Q How old are you? A Twenty-seven.
Q What is your post office? A Kinnison.
Q In what district do you live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A My self and two children.
Q Are you a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I was born in the Cherokee Nation.
Q Have you lived in the Cherokee Nation all your life? A All but in time of the war when I couldn't.
Q Give me the name of your father? A Ira Goddard.
Q Is he dead or alive? A He is dead.
Q Give me the name of your mother? A Elizabeth.
Q Is she dead or alive? A She is dead.
Q Give me the names of your children. (Applicant hands Commissioner paper.)
Q Your eldest child is Luticia E., isn't it? A Yes, sir.
Q She will be three years old this October? A Yes, sir.
Q Is that right? A Yes, sir.
Q The next child is Mary E., isn't it? A Yes, sir.
Q A year old last June? A Yes, sir.
Q Give me the name of the mother of these children.
A Laura E. Goddard.
Q Cherokee or white woman. A White woman.
Q Is she dead or alive? A She is living.
Q How old is she? A She is thirty-seven.
Q When did you marry her? A In 1897.
Q What time in 1897? A In January.
Q Have you a certificate of your marriage? A I have not for that marriage; then I was married after that by the Cherokee law. I did not get any certificate of marriage in January. I have one here of the Cherokee law, married at Claremore, after that.
Q Are you living with her now? A Yes, sir.
Q This shows that you married her in May 1898. A Yes, sir. I didn't get no certificate when I first married.
Q This is a certificate of marriage by the Clerk of Cooweescoowee District, in May, 1898? A Yes, sir.
Q Who here knows that you married her in 1897? A I don't know, sir.
Q How can you prove that marriage? A Well, I haven't got no proof, now.
Q You cannot do it? A Not now.
Q Well, how can you do it at any time? A Well, I can't say that I can.
Q Were you married by a preacher? A Yes, sir.
Q In the presence of witnesses? A Yes, sir; his wife.
Q The preacher's wife? A Yes, sir.
Q What was the name of the preacher? A I have forgot his name.
Q Where were you married? A Up in Kansas.
Q Didn't he give you a certificate of marriage? A No, sir; he promised to send it to me. I went up to Kansas for my woman. But he never sent it to me.

THE COMMISSION: This certificate of the Cherokee marriage is filed herewith.

Q You are living with your wife, are you? A Yes, sir.

Q You had better let your [illegible] here too. We cannot enroll her, but it keeps your family together.

A All right.

Q How old is your wife? A Thirty-[illegible].

1880 Roll, page [illegible], No. [illegible], Henry [illegible], Delaware District.

1896 Roll, page [illegible], No. [illegible], Henry [illegible], Cooweescoowee District.

Q Were you ever married before you married this wife? A Yes, sir.

Q Is that wife dead? A Yes, sir.

Q When did she die? A She died in 189[illegible].

Q You have only been married these two times? A Yes, sir.

Q Was your present wife married before she married you? A Yes, sir.

Q Has she a divorce from her former husband? A Yes, sir.

Q Have you got the decree of divorce? A Yes, sir.

Q Have you got a copy of that decree with you? A No, sir; I have not.

Q What was her name when you married her? A Gideon.

Q What was the name of her former husband? A [illegible] D., I believe.

THE COMMISSION: The applicant applies for the enrollment of himself, his wife and two children. He is identified on the rolls of 1880 and 1896 as a native Cherokee. He has lived in the Cherokee Nation all his life and he will be listed now for enrollment as a Cherokee by blood. His wife is shown to have been married to him in accordance with the Cherokee law May 8th, 189[illegible]. He states that they were married under the United States law in January, 1897, but he is not able to produce evidence of the fact. In either event, his wife was married too late under the Cherokee law of 1[illegible] to be entitled to enrollment at this time. Also it is developed that she was previously married, and no copy of the decree of divorce is presented to support the assertion that she was divorced from her former husband. She will be placed upon a rejected card, the application for her enrollment being rejected at this time. Now, as to the two children, one of them is too old to be legalized under the Cherokee Marriage and the United States marriage is not satisfactorily established. Also it is necessary to prove that the mother of these children was divorced from her former husband. The elder child [illegible] E., is placed upon a doubtful card to await the evidence of its mother's divorce from her former husband, and of the fact of her marriage in January, 1897. The younger child Mary E., is also placed upon a doubtful card to await evidence of its mother's being divorced from her former husband. The applicant is required to supply the Commission with proper certificates of the birth of these two children.

The undersigned, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this [illegible] day of October A. D., 1900.

Commissioner.

Supl.-C.D.#493.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of LUTITIA E. GODDARD, ET AL., as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 12, 1902, that her application for the enrollment of herself and child as citizens of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 28th day of February, 1902. Receipt has been acknowledged of Commission's letter and the applicant this day, to-wit: 28th day of February, 1902, appears by her Attorneys, Mellette & Smith, Vinita, Indian Territory.

Mr. W. W. Hastings, Cherokee Representative, present.

Mr. Mellette: The applicant in this was was the child of Henry Goddard and Laura Goddard. Henry Goddard, the father, is enrolled on Cherokee straight card 3997. The applicants file certified copy of decree of divorce of Larura Gideon versus S. D. Gideon by the United States Court at Vinita, Indian Territory. The applicants call attention to the fact that the certificate of marriage by William H. Frye, Clerk of Cooweescoowee district, May 6, 1898, of Laura Gideon and Henry Goddard as filed in Cherokee case 3997. The applicants contend that the subsequent marriage of their father and mother legitimatizes them. The marriage license above referred to showing that a marriage took place after the divorce was granted to the mother from her former husband.

Commission: Attorney for the applicant and Cherokee representative present submit the case to the Commission and the same is ordered closed and reported to the Commission for final decision based upon the testimony now on file.

The attorney for the applicant asks to be allowed 15 days in which to file a brief in this case, which will be granted, one copy with the Cherokee Nation and one copy with the Commission.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic note thereof.

J O Rosson

Subscribed and sworn to before me this March 3, 1902.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., April 17, 1902.

In the matter of the application of
Luticia E. Goddard, et al, for enrollment as citizens of the Cherokee Nation.   Cherokee D. 493.

Brief on behalf of the Cherokee Nation.

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The parents of these applicants were both previouslY married; the formed wife of the father died in 1896, while the former husband of the mother and she were separated; but the testimonY ~~of~~ does not disclose just when the separation tool place, and there seems to be an absence of entire frankness with reference to the statements made. The father of the children states that he was married to their mother twice, but presents no proof of his first marriage, which was before the birth of this child. We do not think that the law cited bY counsel for applicant is applicable to this case. The presumption in this case is that this child's father is her mother's first husband. And where there is no proof of the time of their separation, and where it is shown that there was a divorce secured subsequent to the birth of the child, and where there is no proof that this child is a legitimate child to be legitimatized bY a subsequent marriage, certainlY it would not seem to us that this child is entitled to be enrolled. The certified copY of the decree of divorce filed in this case discloses the fact that this same mother of the applicant has four children for whom she asked and secured the care and custodY bY the court when she secured the divorce from her former husband. If this oldest applicant can now be enrolled whY should she not applY for the enrollment of all four of these other children? And it is not clear but that the oldest child, Luticia, [illegible] is the LucY whose name is embraced in the decree of the Court.

Your attention is further invited to the fact that the testimonY discloses the fact that the former wife of the father of these children died in 1896, and the reasonable inference is that he would at least have remained single a short time before his illegitimate union or marriage to his present wife; and in as much as this oldest applicant was born in October, 1897, it is entirelY reasonable to presume, in the absence of testimonY, that he was not living with the mother of ~~these~~ this child a sufficient length of time to entitle him to be called its father.

Section 687 of the Compiled Laws of theCherokee Nation provides: "No marriage shall be contracted while either of the parties has a husband or wife living". Hence there was no marriage between the mother of these children and the alleged father until MaY, 1898; and the onlY question is whether this subsequent marriage will date back and legitimatize children when it is not shown that the mother of the children and the alleged father were living together as husband and wife prior to the birth of this child.

We do not think the law citied bY counsel for applicant is applicable to this case because it is not applicable to the facts. We think that there must be a verY strong case of common law marriage where the testimonY is undisputed,- where the children are clearlY recognized throughout the communitY as the children ofthat unlawful union, for them to be legitimatized bY a subsequent marriage. And we are not clear then that this marriage should prejudice the interests of the Cherokee Nation. While it might entitle the child to heir the father's personestate, Yet we do not subscribe to the view that it would inherit an interest in the lands and moneYs of the Cherokee Nation.

You can observe how the above contention that subsequent marriages legitimatizes illegitimate children could be urged to the verY great detriment of the Cherokee Nation; because even at this date some white woman with a dozen illegitimate children, whose father was an Indian, might contract a marriage with some disreputable citizen of the Cherokee Nation for gain, which, according to the argument of counsel, would legitimatize these children, and entitle them to a distributive share of the lands and moneYs of the Cherokee Nation.

Our point is that if the man himself entered into this conspiracY he himself would be estopped hereafter to denY it, and the children therefore would be entitled to heir his propertY and would be legitimate for that purpose; but that his recognition of them would not prejudice the interests of the Chehokee Nation and entitle them to a share in our funds and lands to which theY are not legallY entitled.

RespectfullY submitted,

AttorneY for the Cherokee Nation.

[illegible]

Cherokee D 496

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Luticia E., Mary E. and Babe Goddard as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on October 2, 1900, Henry Goddard appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of his minor children Luticia E. and Mary E. Goddard as citizens by blood of the Cherokee Nation. On February 28, 1902, further proceedings were had in the matter of this application at Muskogee, Indian Territory. The other parties to the application are differently classified and are not embraced in this decision. Since the date of the application a third child, Babe Goddard has been born as appears from a birth affidavit on file with this Commission.

The evidence shows that Luticia E., Mary E. and Babe Goddard are the children of Henry Goddard, a Cherokee citizen by blood, and his wife Laura Goddard to whom he was lawfully married May 6, 1898. The evidence further shows that the said Luticia E. Goddard was born October 8, 1897.

Section 692, Compiled Laws of the Cherokee Nation, (1892) provides:

> "When a man, having by a woman, one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, or proven to be his, shall thereby be legitimate, ..."

All of the above named children are identified by birth affidavits on file with this Commission.

The evidence further shows that Henry Goddard, the father of these children has resided in the Cherokee Nation since 1865, and that he and his wife Laura Goddard have been living together in said Nation since their marriage, and were residing therein at the date of this application.

It is, therefore, the opinion of this Commission that Luticia E. Goddard, Mary E. Goddard and Babe Goddard should be enrolled as citizens by blood of the Cherokee Nation under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge

Commissioner.

Dated at Muskogee, I T.

this SEP 10 1902

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., October 7, 1902.

In the matter of the application of
Lutitia E. Goddard, et al, for enroll-
ment as citizens of the Cherokee Nation. Cherokee D 493.

Protest of the Cherokee Nation.

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The Cherokee Nation desires to respectfully protest against the decision of the Commission to the Five Civilized Tribes, rendered in this case on September 20, 1902, and requests that the case be forwarded to the Secretary of the Interior for review.

The parents of these applicants were both previously married; the former wife of the father died in 1896; but the testimony does not disclose just when the separation took place, and there seems to be anabsence of entire frankness with reference to the statements made. The father of the children states that he was married to their mother twice, but presents no proof of their first marriage, which was before the birth of this child. We do not think that the law cited by counsel for applicant is applicable in this case. The presumption is that the child's father is her mother's first husband. And where there is no proof of the time of their separation, and where it is shown that there was a divorce secured subsequent to the birth of the child, and where there is no proof that this child is a legitimate child to be legitimatized by a subsequent marriage, certainly it would not seem to us that this child is entitled to be enrolled. The certified copy of the decree of divorce filed in this case discloses the fact that this same mother of the applicant has four children for whom she asked and secured the care and custody by the court when she secured the divorce from her former husband. If this oldest applicant can now be enrolled why should she not apply for the enrollment of all four of these other children? And it is not clear but that the oldest child, Lutitia, is the Lucy whose name is embraced in the decree of the court.

Your attention is further invited to the fact that the testimony discloses the fact that the former wife of the father of these children died in 1896, and the reasonable inference is that he would at least have remained single a short time before his illegitimate union or marriage to his present wife; and in as much as this oldest applicant was born in October, 1897, it is entirely reasonable to presume, in the absence of testimony, tat he was not living with the mother of this child a sufficient length of time to entitle him to be called its father.

Section 687 of the Compiled Laws of the Cherokee Nation provides: "No marriage shall be contracted while either of the parties has a husband or wife living." Hence there was no marriage between the mother of these children and the alleged father until May 1898: and the only question is whether this subsequent marriage will date back and legitimatize children when it it is not known that the mother of the children and the alleged father were living together as husband and wife prior to the birth of this child.

We do not think that the law cited by counsel for applicant is applicable in this case because it is not applicable to the facts. We think that there must be a very strong case of common law marriage where the testimony is undisputed,- where the children are clearly recognized throughout the community as the children of that unlawful union, for them to be legitimatized by a subsequent marriage. And we are not clear then that this marriage should prejudice the interests of the Cherokee Nation. While it might entitled the child to heir the father's person-estate, yet we do not subscribe to the view that it would inherit an interest in the lands and moneys of the Cherokee Nation.

You can observe how the above contention that subsequent marriages legitimatizes children ~~should~~ could be urged to the very great detriment of the Cherokee Nation, because even at this date some white woman with a dozen illegitimate children, whose father is an Indian, might contract a marriage with some disreputable citizen of the Cherokee Nation for gain, which, according to the argument of Counsel, would legitimatise these children, and entitled them to a distributive share of the lands and moneys of the Cherokee Nation.

Our point is that if the man himself entered into this conspiracy he himself would be estopped hereafter from denying it, and the children therefore would be entitled to heir his property and would be legitimate for that purpose; but that his recognition of them would not prejudice the interests of the Cherokee Nation and entitled them to a share in our funds and lands to which they are not legally entitled.

Respectfully submitted,

W W Hastings JCS

Attorney for the Cherokee Nation.

Attest:

W W Hastings

Stenographer for the Cherokee Nation.

Cher
D 493

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., January 6, 1903.

In the matter of the application for the enrollment of LUTICIA B. GODDARD, as a citizen by blood of the Cherokee Nation:

Appearances:
G. P. Fogle, on behalf of Edgar Smith, for applicant;
J. C. Starr, for the Cherokee Nation.

LAURA E. GODDARD, being first duly sworn, and examined, testified as follows:

Examined by Mr. Fogle:

Q State your name ? A Laura E. Goddard.
Q Where do you live ? A At Kennison.
Q What akin are you to Henry Goddard ? A His wife.
Q When were you married ? A In 1897.
Q What time ? A The 4th of October--or January.
Q The 4th of January ? A Yes sir.
Q Who is Luticia B. Goddard ? A My child.
Q When was she born ? A In October, 1897, the 8th day.
Q Had you and Henry Goddard lived together as man and wife from the time you were married in January, 1897, until October 8, 1897 ?
A Yes sir.
Q Who was the father of Luticia B. Goddard ? A Henry Goddard.
Q Has she always lived with you and Henry Goddard, and been recognized by Henry Goddard as his child ? A Yes sir.
Q And has he always supported it; card for it ? A Yes sir.
Q Who was the midwife at the birth ? A Nancy Moore.

Examined by the Commission:

Q Had you been married before you were married to Henry Goddard ?
A Yes sir.
Q What was your first husband's name ? A Stokeland Gideon.
Q When were you married to him ? A In 1892.
Q Is he dead ? A No sir.
Q You were separated ? A Yes sir.
Q When did you separate ? A In 1896.
Q Are you divorced from him ? A Yes sir.
Q When were you married to Henry Goddard ? A In 1897.
Q You are a Cherokee by blood are you ? A No sir, I aint.
Q You are a white woman ? A Yes sir.
Q Henry Goddard is a Cherokee by blood ? A Yes sir.
Q When did you separate from your husband Stokeland Gideon ?
A In 1896.
Q Never lived with him after that did you ? A No sir.
Q You were married to your present husband in January, 1897 ?
A Yes sir.
Q He is the father of these three children, Luticia B., Mary E. and Babe Goddard ? A Yes sir.
Q He is the father of all three is he ? A He is the father of all three of them.

NANCY J. MOORE, being duly sworn, and examined, testified as follows:

Examined by Mr. Fegle:

Q State your name and age ? A Why I am seventy years old, and my name is Nancy J. Moore, that's the way I write my name.

Q Do you know Luticia B. Goddard ? A Yes sir.

Q Do you know when she was born ? A I do; I was right there and washed and dressed her, I was right there.

Q When was that ? A She told you, she can remember dates better than I can; I don't remember dates as well as she does.

Q Is it the time she stated ? A Yes sir.

Q Who is the mother of Luticia ? A She is.

Q Laura B. Goddard ? A Yes sir.

Q How came you to be there ? A Well, Henry come after me, and took me over there.

Q You were the midwife ? A Yes sir.

Q Do you know how long Henry Goddard and Laura had been living together as man and wife up to the time of the birth of this child ?

A Why I don't know exactly, but I know pretty near the time. Of course my memory is not good like it used to be. You see I can't remember like I used to; ten or eleven months anyway, if not longer.

Q Has Henry Goddard always recognized Luticia as his child ?

A Yes sir.

Q Supported it ? A Yes sir.

Q Cared for it ? A Yes sir.

Examined by the Commission:

Q Henry Goddard was the one that came for you ? A Yes sir, he come himself and took me to his house.

Q Luticia was the eldest child ? A Yes sir.

JAMES GODDARD, being first duly sworn, and examined, testified as follows:

Examined by Mr. Fegle:

Q State your name ? A James Goddard.

Q How old are you Mr. Goddard ? A Sixty seven.

Q Are you any akin to Henry Goddard ? A A brother.

Q Did you ever live with Henry Goddard and his wife Laura B. Goddard ? A I lived there all the time.

Q Were you living with them at the time of the birth of Luticia B ?

A I was.

Q How long had you been living with them up to that time ?

A About six years.

Q I mean how long have you been living with Henry Goddard and Laura B ? A I was there when they got married. I didn't see them married.

Q Did you live with them from the time they were married up to the birth of this child ? A Yes sir.

Q Did Henry Goddard and Laura B. Goddard live together as man and wife from the time of their marriage up to the birth of this child ?

A Yes sir.

Q Has Henry Goddard always recognized Luticia B. Goddard as his child, and supported it ?

A Yes sir.

HENRY GODDARD, being duly sworn, and examined, testified as follows:

Examined by Mr. Fogle:

Q State your name and age ? A Henry Goddard, forty nine last August.
Q Are you the husband of Laura E. Goddard ? A Yes sir.
Q When were you and she married ? A In January, 1897.
Q When was Luticia E. Goddard born ? A October 8, 1897.
Q Did you and Laura E. Goddard always live together as man and wife up to that time ? A Yes sir.
Q Have you always recognized and claimed Luticia E. Goddard as your child ? A Yes sir.
Q Supported her and cared for her ? A As good as I could.

Examined by the Commission:

Q Did you know the former husband of your wife--Gideon ?
A Yes sir.
Q Where is he living now ? A The last I heard from him he was living at Claremore.
Q Did you know him when they were living together as man and wife ?
A Yes sir.
Q How long had they been separated before you married her ?
A I don't recollect just what time; they separated in the fall.
Q The fall of 1896 ? A Yes sir, the fall of 1896 they separated.
Q You married her in January, 1897 ? A Yes sir.
Q Luticia E. Goddard was born when ? A October 8, 1897.
Q Luticia is your child ? A I claim her as mine, I think it is.
Q Recognize it ? A Yes sir.
Q She has lived in your family ever since she was born ?
A Yes sir.
Q And you have supported her ? A Yes sir.
Q Did your wife have any children by her former husband, Gideon ?
A Yes sir.
Q Where are they ? A Three of them living, two living with me, one is married.
Q How old is the youngest one ? A The youngest one is dead.
Q When did he die ? A (No response)

By Mrs. Goddard: In 1898, I believe.

LAURA E. GODDARD, being re-called, and examined, testified as follows:

Examined by the Commission:

Q How old was he when he died ? A Six years.
Q How old is Luticia ? A She was five on the 8th day of October.
Q How long had you been separated from your husband Gideon before you married Mr. Goddard ? A We separated in 1896.
Q What time in 1896 ? A It was in October.
Q You never saw him again, did you, until you married Mr. Goddard ?
A I saw him.
Q Never lived with him at all ? A No sir.
Q Did he bring suit for divorce or did you ? A I did.
Q When did you bring that suit, before you married Mr. Goddard ?
A No sir.
Q Afterwards ? A Yes sir.

I, E. C. Bagwell, a stenographer to the [illegible] the Five Civilized Tribes, on oath state that the [illegible] accurate transcript of the [illegible] testimony and proceedings had in the above entitled [illegible] by [illegible] C. Carr, stenographer, as the same were by him read to me.

E. C. Bagwell

Subscribed and sworn to before me this February 7, 1903.

Samuel Foreman
Notary Public.

8723

Cherokee D. 483.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Luticia E. Goddard as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on October 2, 1900, Henry Goddard appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of his minor child, Luticia E. Goddard, as a citizen by blood of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision.

On September 20, 1902, the Commission to the Five Civilized Tribes rendered a decision enrolling said Luticia E. Goddard as a citizen by blood of the Cherokee Nation. On October 7, 1902, the Cherokee Nation, through its legal representatives, filed a motion to reopen said case which was granted, and the Commission, in pursuance of instructions to reopen said case, notified the Cherokee Nation and the applicant, through her father, Henry Goddard, that the case had been reopened for the introduction of additional evidence. Thereafter at Vinita, Indian Territory, on January 6, 1903, further proceedings in the matter of said application were had.

The evidence shows that Henry Goddard, a Cherokee citizen by blood, was married to one Laura E. Gibson, a white woman, in January, 1897. As a result of their union Luticia E. Goddard, the applicant herein, was born on October 2, 1897. The evidence further shows that the said mother of this applicant had a living husband from whom she had not been divorced at the time of Luticia E. Goddard's birth. The said Henry Goddard is identified on the Cherokee authenticated roll of 1880 and the Cherokee census roll of 1896. Luticia E. Goddard is identified by a birth affidavit made a part of the record herein.

Section 667 of the Compiled Laws of the Cherokee Nation (1892), provides:

> "All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceeding; provided, that the issue from such unlawful marriage shall nevertheless be legitimate; . ."

It is, therefore, the opinion of this Commission that Luticia P. Goddard should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JUN 1 - 1903

C.D. No. 493

Henry Goddard
for his
Children

vs

Cherokee Nation

(Copy)

Brief for
applicants

Mellette & Smith
Attys. for applican

[illegible]

[illegible], OKLAHOMA.

[illegible] 6, [illegible].

It [illegible] from the record in this case that the father of the [illegible] for [illegible]; and that [illegible] married [illegible] United States, [illegible] [illegible] [illegible] married [illegible]; that [illegible] State [illegible] [illegible] its: that [illegible] Henry [illegible] and his [illegible]: that [illegible] herein said Henry [illegible] marriage license [illegible] district of the [illegible] [illegible] married under the consti- [illegible] [illegible] [illegible] of the record [illegible] said Henry Godard and [illegible], by virtue of the marriage license [illegible] district, [illegible] from of the [illegible] marriage recited in this record, there is no [illegible] in charge referring to the [illegible], [illegible] statement that one of them is "too old to be legally [illegible] and the United States marriage is not satisfactorily established." Doubtless in the pressure of the [illegible] work the [illegible] Commissioner did not take time to reflect that almost everywhere now the subsequent marriage of the parents of an illegitimate child legitimizes said child. There can be no dispute whatever in this jurisdiction with regard to this law. It is

[illegible]

the [illegible] law in force in this jurisdiction. Section [illegible] [illegible], provides as follows:

> "[illegible] child or children, and [illegible] shall [illegible] children, and shall recognize such [illegible] to be [illegible], [illegible] legitimate."

[illegible] of the [illegible] of 189[illegible],

[illegible] as follows:

> "[illegible] parties, or [illegible] illegitimate; provided [illegible] to be [illegible]."

[illegible]. It [illegible]lly [illegible]

[illegible].

Respectfully submitted.

Mellette L. Smith

[illegible] for [illegible]ts.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee D 493.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Henry Goddard for the enrollment of his three minor children, Luticia E., Mary E. and Babe Goddard, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 88.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee D 493.

Muskogee, Indian Territory, October 24, 1902.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date September 20, 1902, granting the application of Henry Goddard for the enrollment of his three minor children, Luticia E., Mary E. and Babe Goddard as citizens by blood of the Cherokee Nation, a copy of which said decision was furnished you on September 30, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge
~~Acting Chairman.~~
Commissioner in Charge.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:

Cherokee D-493.

Muskogee, Indian Territory, December 4, 1902.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:-

You are hereby advised that the decision of the Commission heretofore rendered in the matter of the application of Henry Goddard, for the enrollment of his children, Luticia E. Goddard, Mary E. Goddard and Babe Goddard was, on November 25, 1902, affirmed by the Department as to Mary E. Goddard and Babe Goddard.

As to the application of Henry Goddard for the enrollment of Luticia E. Goddard, the Commission was directed to notify him that he would be allowed a further opportunity to produce evidence to show that he is the father of Luticia E. Goddard.

You are further advised that the said Henry Goddard and his attorney, Edgar Smith, Vinita, Indian Territory, have this day been notified that they would be allowed fifteen days from date hereof in which to introduce the evidence desired.

Respectfully,

Acting Chairman.

COMMISSIONERS
TAMS BIXBY,
THOMAS B NEEDLES
C. R BRECKINRIDGE.
W. E STANLEY

ALLISON L AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

61

REFER IN REPLY TO THE FOLLOWING
Cherokee D-493.

Muskogee, Indian Territory, July 9, 1903.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application of Henry Goddard for the enrollment of his minor child, Luticia E. Goddard, as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. H-26.

493

IN THE MATTER OF THE APPLICATION OF

Luticia E. Goddard et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

Decree of divorce of
her from former
husband required—

D495

IN THE MATTER OF THE APPLICATION OF

Liticia E. Goddard

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Transferred to Cherokee 10261

A. Original testimony - Oct 2-1900
B. Memo. of application Oct 2-1900
C. Affidavit of birth Liticia E. Goddard
D. Affidavit of birth Mary E. Goddard.
E. Notice of final consideration, 2-28-02
Copy of [illegible]
with Cherokee Nation
[illegible]
F Receipt for testimony
Decree of divorce
See Cherokee Jacket 3997,
Re'l
~~G~~ Supplemental proceedings and order closing testimony, Feb. 28, 1902.
over

END
OF
ROLL

311

301